RECOMMENDATIONS

Community Planning Group/Staff's/Planning Commission

Project Manager must complete the following information for the Council docket:

CASE NO. Plum Street Right-of-Way Vacation - Project No. 6360

STAFF'S RECOMMENDATION:

Please indicate recommendation for each action. ie: resolution/ ordinance

APPROVE Public Right-of-way Vacation No. 39220

PLANNING COMMISSION RECOMMENDATION:

YEAS:

4 - Steele, Ontai, Otsuji and Garcia

NAYS:

2 - Schultz and Chase

ABSTAINING: chair vacant

TO: Approve the proposed Full-Width vacation with a 58-foot wide non-building easement recorded over the vacated area.

COMMUNITY PLANNING GROUP

LIST N	AME OF GROUP: Peninsula Community Planning Board	
_ 	No officially recognized community planning group for this area.	
_	Community Planning Group has been notified of this project and has not submitted a recommendation	tion.
_	Community Planning Group has been notified of this project and has not taken a position.	
_	Community Planning Group has recommended approval of this project.	,
<u>X</u>	Community Planning Group has recommended denial of this project.	
_	This is a matter of City-wide effect. The following community group(s) have taken a position on the	item:
	In favor: 11	·. «.:
	·	

Opposed: 1

Abstained: 1

Patrick Hooper, Project Manager

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5. PRIMA	RY CONTACT (NAM	E, PHONE, & MAIL STA	(4.)	6. SECONDA	RY CONTACT (NA	ME, PHO	INE, & MAIL STA.)	7. CHECK	BOX IF REPORT	TO COUNCIL IS ATTACHE	
Patrick Hooper: (619) 557-7992, M			S 501 Morris Dye (619) 446-5308 EXECUTIVE				CUTIVE SUMARY	ONLY			
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11A.	STAFF RECOMMEN	DATIONS:								,	
App	prove Public R	ight-of-Way Va	cation No. 3	39220.							
	SPECIAL COND	PITIONS (REFER	TO A.R. 3.20 Two	FOR INFO	RMATION ON	I COMF	PLETING THIS S	ECTION.)		
COMMUNITY AREA(S): Peninsula											
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LIN	VIRONWENT						ion 15301 – exi			ii Quanty Act (CE	(QA)
<u>HO</u>	HOUSING IMPACT: The adjacent properties are zoned RS-1-7 which permits residential development with a density of one dwelling unit per legal lot. The proposed public right-of-way vacation would add approximately 3,500 square feet of lot area to the adjacent property. However, there would be no net loss or net gain of residential dwelling units as a result of the proposed vacation.				ly 3,500						
<u>OTI</u>	OTHER ISSUES: The proposed vacation would resolve the non-permitted encroachment in the r-o-w.										

EXECUTIVE SUMMARY SHEET

DATE REPORT ISSUED: October 20, 2008 REPORT NO.: PC-05-227

ATTENTION: Council President Peters and City Council

ORIGINATING DEPARTMENT: Development Services Department SUBJECT: Plum Street Right-of-Way Vacation – Project No. 6360

COUNCIL DISTRICT(S): Two

STAFF CONTACT: Patrick Hooper: (619) 557-7992 - phooper@sandiego.gov

REQUESTED ACTION:

This action is a request to vacate a partially improved portion of the Plum Street Public Right-of-Way.

STAFF RECOMMENDATION:

APPROVE Public Right-of-Way Vacation No. 39220.

EXECUTIVE SUMMARY:

The project proposes to vacate an unimproved segment of the Plum Street public right-of-way adjacent to 1202 Plum Street within the Peninsula Community Planning area (Attachment 1). The Plum Street right-of-way was established as part of the original subdivision pursuant to Map No. 305 and Map No. 165 recorded in the County of San Diego in 1914. Adjoining segments of Plum Street have been previously vacated by City Council resolution in 1926 and 1965. These actions have resulted in a remnant portion of Plum Street providing lot frontage for four properties and a right-of-way that terminates in a non-standard cul de sac.

In 2005, a proposal to vacate the full-width of the right-of-way was heard by the Planning Commission (Attachment 5). Since that time, the project has been revised to propose only a half-width vacation. The segment of Plum Street between Byron Street and Carleton Street is a partially improved public right-of-way. Approximately 35 feet, or half of the right-of-way width, has been improved to provide access to three of the four homes along this section of the street. The portion of the right-of-way proposed to be vacated has never been improved with the exception of the encroachment of a private drive way and ornamental landscaping (Attachment 2). A six-foot wide general utility and access easement will be reserved as a part of the vacation (Attachment 3).

The area to be vacated is within the single-family RS-1-7 Zone which is intended for development of one dwelling unit per legal lot. The surrounding neighborhood is developed exclusively with single-family homes and the vacation would not result in any additional dwelling units. Staff has reviewed the requested right-of-way vacation and determined that the applicable findings can be affirmed to approve the vacation request.

Regulatory Framework

The Land Development Code establishes a process for approving applications to vacate public rights-of-way and includes the applicable findings that a decision maker must make to approve the requested vacation. The findings generally establish that there is no present or prospective use for the right-of-way, either for the use for which it was intended, or a public use of a similar nature; that the public will benefit from the vacation by the improved use of the land; that the vacation will not adversely affect the applicable land use plan; and that the public facility for

which the right-of-way was originally acquired will not be detrimentally affected by the vacation. Staff has concluded that the purpose and intent for which the public right-of-way was originally dedicated has not been met. The area to be vacated was never fully improved or utilized as a street or for any other public use including pedestrian access. The proposed vacation would not adversely affect any existing access to surrounding properties. Nor would the vacated right-of-way provide a logical connection to adjacent streets or facilitate vehicle circulation as it terminates in a non-standard cul de sac. The proposed vacation meets all of the criteria that would allow a decision maker to affirm the required findings. The portion of the street proposed to be vacated does not provide access to any of the abutting properties and due to the adjacent right-of-way vacations approved by previous city councils, it is unlikely that the street would be improved in the future. The city would benefit by relinquishing the maintenance and liability associated with the easement and the abutting property owners would benefit from the closure by regaining the vacated portion of the right-of-way for which they own the underlying fee title. The proposed vacation would not adversely affect the peninsula community plan and the proposed vacation would not affect on-street parking or existing access to adjacent properties.

FISCAL CONSIDERATIONS:

There are no fiscal considerations with this project. The costs of processing this application are paid for by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 27, 2005, the Planning Commission voted 4-2 to recommend the City Council approve a full-width vacation, with the condition that a building restricted easement be applied to the area of vacated street. The property owner has agreed to the non-building easement. The Peninsula Community Planning Board considered the project at their meeting on August 21, 2003 and voted 11-1-1 to recommend denial of the project citing concerns about parking and a lack of public benefit. Both the Planning Commission recommendation and the Peninsula Community Planning Board recommendations were based on a previous proposal advocating a 70 foot full-width vacation. The project has been revised to request a 35 foot half-width vacation.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

William and Peggy Tilden property owners

Kelly Broughton

Director

Development Services Department

William Anderson

Deputy Chief Operating Officer:

Executive Director of City Planning

and Development

ATTACHMENTS:

1. Location Map

2. Aerial Photo

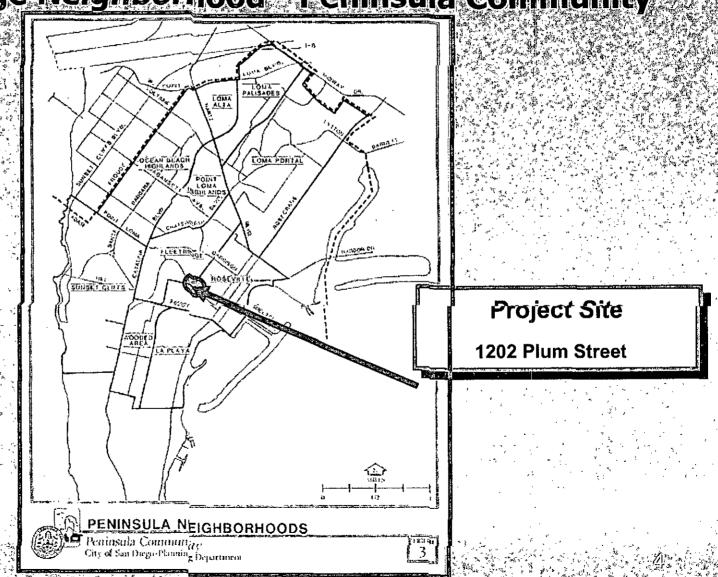
3. Vacation Exhibit

4. Public Right-of-Way Vacation Resolution with Findings

5. Planning Commission Report No. PC-05-227

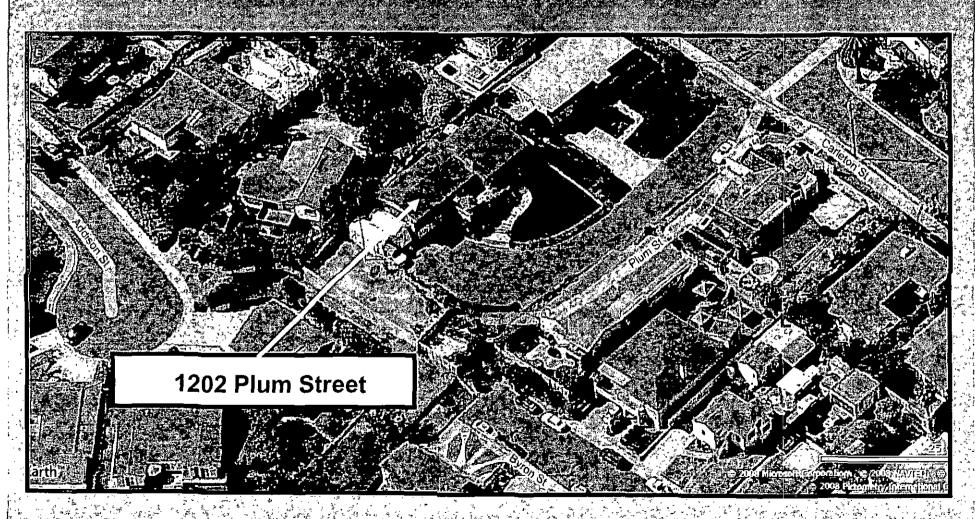
Development Services Department Project Management Division

Fleetridge Neighborhood = Peninsula Community



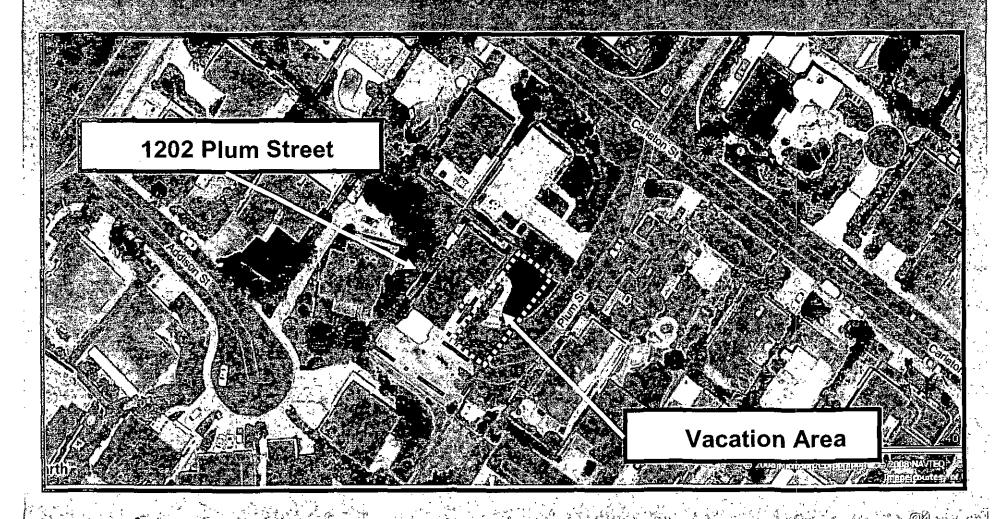
Development Services Department Project Management Division

Aerial Photograph



Development Services Department Project Management Division

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RESOLUTION NUMBER R	
ADOPTED ON	

WHEREAS, California Streets and Highways Code section 8330, et seq. provides a procedure for the summary vacation of streets by City Council resolution where the portion of street to be vacated consists of a portion of a street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another; and

WHEREAS, the abutting property owner has requested the vacation of a half-width portion of Plum Street, adjacent to 1202 Plum Street, Lot 1, Block 21, Subdivision Map 305, to facilitate development of their property; and

WHEREAS, the City Council finds that:

(a) There is no present or prospective use of the public right-of-way to be vacated, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated. Plum Street at the project location is a partially improved paper street 70 feet in width and 200 feet long running in a approximate north-south direction, of which the southerly 100 feet fronts the project sites. An existing 27-foot wide road along the eastern edge of the right-of-way terminates in a non-standard cul-de-sac, providing access to three existing residential properties: 1234 Plum Street (southwest corner of Plum and Carleton Streets), and two subject properties located at 1202 and 1203 Plum Street. The portion of Plum Street to remain would provide a 35 ft. wide and 100 ft. deep right-of-way, with a 27' pavement width which would continue to

provide reasonable access to 1202, 1203 and 1234 Plum Street. Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965). Therefore there is no existing right-of-way connecting Plum Street to Byron Street and no existing or planned through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify this segment of Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Plum Street currently dead ends along the frontage of the subject site and is not a through street. The unimproved portion of Plum Street proposed to be vacated is a remnant piece of right-of-way that has no connectivity to any other street. As stated above, portions of Plum Street at Byron Street to the south have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965). As such, there is no existing right-of-way connecting Plum Street to Byron Street and no existing or planned through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify this segment of Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Additionally, the Plan does not identify Plum Street as a protected view corridor. Since the adjoining sections of Byron Street to the southwest and the section of Plum street that connected Byron Street was vacated, the remaining 50 foot wide easements with an improved width of 27 ft. does not comply with current street design standards for a street right-of-way. The remnant portion of the right-of-way proposed to be vacated is comprised of a small retaining wall, a planter and irrigated sloping lawn. This section could not be readily improved for vehicular travel and is not safe for pedestrian access; and

- (b) The public will benefit from the vacation through improved utilization of land because the City of San Diego would be released from any liability and maintenance associated with the substandard right-of-way; and
- (c) The vacation does not adversely affect the General Plan or an approved Community Plan because the portion of right-of-way proposed to be vacated is not identified in the Peninsula Community Plan as a public view corridor or a segment of the transportation element; and
- (d) The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this partial vacation because the proposed vacation would not remove any existing improved street parking and would not remove any on-street parking. The proposed partial vacation would not affect the circulation pattern of the existing street system because the current 27 ft. wide improved street and a dead end cul-de-sac would remain; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

- 1. That the half-width portion of Plum Street, adjacent to 1202 Plum Street, legally described as Lot 1, Block 21, Subdivision Map No. 305, as more particularly shown on Drawing No. 20031-B, marked as Exhibit "A," and on file in the office of the City Clerk as Document No. RR-______, which is by this reference incorporated herein and made a part hereof, is ordered vacated.
- 2. That the Development Services Department shall cause a certified copy of this resolution, with attached exhibits, to be recorded in the office of the County Recorder.

- 3. That the City of San Diego hereby reserves and excepts the right, easement, and privilege of placing, constructing, repairing, replacing, maintaining, using, and operating public utilities of any kind or nature, including, but not limited to, general utilities and all necessary and proper fixtures and equipment for use in connection therewith, through, over, under, upon, along, and across the hereinafter described easement, together with the right of ingress thereto and egress therefrom, together with the right to maintain the said easement free and clear of any excavation or fills, the erection or construction of any building or other structures, the planting of any tree or trees thereon, or the drilling or digging of any well or wells thereon, together with the right to otherwise protect from all hazards the operation and use of any right hereby reserved. Upon acquisition of encroachment permit from the City Engineer pursuant to the Municipal Code of the City, the owners of the underlying fee may utilize the above described parcel of land for structures, the planting or growing of trees, or the installation of privately owned pipelines.
- 4. That the Owner/permitee shall within 60 days of the approval of the Vacation either remove the encroachment(s) that extend beyond center line of Plum St., or apply for and diligently process a Site Development Permit (SDP) to retain the encroachment(s). In the event that the SDP is not approved by the City, then Owner/Permitee shall remove the encroachment(s) within 45 days of such denial.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

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	NAME		

Deputy City Attorney

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THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED:

January 21, 2005

REPORT NO. PC-05-227

ATTENTION:

Planning Commission, Agenda of January 27, 2005

SUBJECT:

PLUM STREET VACATION - PROJECT NO. 6360. PROCESS 5

OWNER/APPLICANT:

M. William and Peggy Sue Tilden

SUMMARY

<u>Issue:</u> Should the Planning Commission recommend to the City Council approval of a Planned Development Permit and Public Right-of-Way Vacation for the southerly 100 feet of the 70-foot wide right-of-way of Plum Street at 1202 and 1203 Plum Street?

Staff Recommendation:

- 1. RECOMMEND APPROVAL of Planned Development Permit (PDP) No. 84425; and
- 2. RECOMMEND APPROVAL of Right-of-Way Vacation No. 39220.

Community Planning Group Recommendation: The Peninsula Community Planning Board considered the project at their meeting on August 21, 2003 and voted 11-1-1 to recommend denial of the project (Attachment 13) due to concerns about neighborhood parking and the need to provide a public benefit.

Environmental Review: The project has been determined to be exempt from the California Environmental Quality Act (CEQA) in accordance with the State CEQA Guidelines 15301, Existing Facilities.

Fiscal Impact: The cost of processing this application is paid for by the applicant.

Code Enforcement Impact: None with this action.



Housing Impact Statement: The Inclusionary Housing Ordinance requires all new residential development of two units or more to provide affordable housing. This project proposes only vacation of the public right-of-way adjacent to two existing single-family homes. Therefore, the proposed project would not impact housing supply or affordability.

BACKGROUND

The project is comprised of the two existing single-family residential properties located at 1202 and 1203 Plum Street, and the southerly 100 feet of the 70-foot wide right-of-way of Plum Street adjacent to both subject properties, within the Peninsula Community Plan area (Attachments 1-3). The project site is located at the southern terminus of Plum Street, immediately south of Carleton Street, and is designated Single Family Residential in the Peninsula Community Plan and zoned RS-1-7 (Residential – Single Unit).

The segment of Plum Street south of Carleton Street is a partially improved paper street 200 feet long running in an approximate north-south direction, of which the southerly 100 feet fronts the project sites. An existing 27-foot wide road along the eastern edge of the right-of-way, which terminates in a non-standard cul-de-sac, provides access to three existing residential properties: 1234 Plum Street (southwest corner of Plum and Carleton Streets), and the two subject properties located at 1202 and 1203 Plum Street. A fourth home in the vicinity (1229 Plum) is located at the southeast corner of Plum and Carleton Streets and has access to it's driveway and 2 car garage via a curb cut fronting Carleton Street.

The north side of the right-of-way is developed with landscape areas and low retaining walls which have been part of the neighborhood since the 1950s based upon historical photos and reports from persons who lived in the home at that time (Attachment 8). The subject homes were constructed in the 1950s, and City records show that the paved area of Plum Street was first constructed in 1955. Portions of Plum Street adjacent to the subject properties at Byron Street have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965). The neighborhood in the vicinity of the project site is developed with single-family homes of various sizes and architectural styles. The neighborhood was originally subdivided as part of the Roseville subdivision in 1914.

The project requires a Process 4 Planned Development Permit (PDP) and a Process 5 Street Vacation, to be consolidated and considered as a Process 5 decision (City Council) in accordance with SDMC 125.0940. Development which does not comply with all base zone regulations or all development regulations may apply for deviations through a PDP. As stated in the Municipal Code, the purpose of the PDP regulations is to establish a review process for development that allows an applicant to request greater flexibility from the strict application of the regulations. The intent is to encourage imaginative and innovative planning and to assure that the development achieves the purpose and intent of the applicable land use plan and that it would be preferable to what would be achieved by strict conformance with the regulations.

On May 18, 1993, City Council established Policy 600-15 on street vacations. Council determined it acceptable to vacate in whole or part a public right-of-way when there is no present or prospective use and when such action would serve the public interest.

DISCUSSION

Project Description:

The project consists of two discretionary actions: (1) a Planned Development Permit (PDP) pursuant to §126.0602; and (2) a Right-of-Way Vacation pursuant to §125.0940 of the Municipal Code and Section 8300 *et seq.* of the California Streets and Highways Code, and in conformance with Council Policy 600-15.

<u>Planned Development Permit</u> – The PDP (Attachment 10) is required for this project in order to allow a deviation from the RS-1-7 zone development regulation which requires a lot to have a minimum of 50 feet of street frontage. Currently, both lots have 100 feet of frontage onto the partially improved Plum Street public right-of-way; however, vacation of this 100 foot of street frontage along each of the subject sites would shift their frontage in a perpendicular manner to the 70-foot wide public right-of-way along the new terminus of Plum Street. As a result of the vacation, each site would have 35 feet of street frontage. As a condition of the PDP and street vacation, both properties are required to enter into a shared access agreement to ensure perpetual access to both parties from the terminus of Plum Street, and private maintenance of the driveway and cul-de-sac areas. The deviation from the 50-foot RS-1-7 zone standard would not be detrimental to the public health, safety and welfare in this limited application. No development is proposed with the request to vacate the right-of way, and access to the subject properties would continue to be provided through the terms of the private agreement between the affected property owners. From a neighborhood standpoint, the modified street frontages for the two subject properties would likely not be perceptible, as the road will remain in it's current location, as it has existed for the last 50 years.

Right-of-Way Vacation – The street vacation would remove from public use the southerly 100-foot portion of the existing 70-foot right-of-way dedication along the 100-foot frontage of Plum Street at 1202 and 1203 Plum Street (Attachments 4-5). The City of San Diego Municipal Code allows that a public right-of-way vacation may be initiated at the request of any person and may be summarily vacated if it does not contain public utility facilities, does not contain active public utility facilities, or contains public utility facilities that would not be affected by the vacation. As part of the project review, city staff has determined that the portion of Plum Street to be vacated would not adversely impact existing water or sewer utilities in Plum Street. The following utility companies have also determined that the proposed vacation would have no adverse impact on their utilities: SBC (formerly Pacific Bell) and Cox Cable. As a condition of approval, a general utility easement will be reserved to protect existing water and SDG&E utilities within Plum Street. The portion of the public right-of-way to be vacated is not required for street or highway purposes.

The California Streets and Highways Code at Section 8312 find that "a city legislative body may vacate, pursuant to this part, all or part of a street . . . within the city." The legislative body shall consider the general plan prior to vacating the street. The City of San Diego regulates right-of-way vacations through the Municipal Code at §125.0940 and through Council Policy 600-15. Findings for these requirements are substantiated in the Resolution (Attachment 27).

Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965); therefore, there is no existing right-of-way connecting Plum Street to Byron Street and no through access for pedestrians or vehicular traffic. There is no capacity for the street to serve more than the three existing residences at 1203 and 1203 Plum Street (subject properties), and 1234 Plum Street (corner of Plum and Carleton Streets). The existing driveable width of Plum Street is approximately 27'-0" at its widest point and would not require relocation. The portion of Plum Street to remain would provide a 70'-0" wide and 100-foot deep right-of-way, with a 27' pavement width remaining for reasonable access to 1234 Plum Street. The partial right-of-way vacation would not precipitate a name change for the street, and would not adversely affect fire and life safety services. The proposed vacation would result in an additional 3500 square feet added to each project site for a total project site area of 11,475 square feet at 1202 Plum Street, and approximately 8,500 square feet at 1203 Plum Street.

Community Plan Analysis:

The project will not adversely affect the goals of the Peninsula Community Plan and Local Coastal Program plan and is consistent with the City of San Diego Progress Guide and General Plan. Plum Street currently dead ends along the frontage of the subject site and is not a through street. As noted previously, there is no existing right-of-way connecting Plum Street to Byron Street and no existing or planned through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Additionally, the Plan does not identify Plum Street as a protected view corridor (Figure 16). At approximately 11,475 square-feet and 8,500 square feet in size, the new lots would not be out of character for the immediate neighborhood.

Environmental Analysis:

The project has been determined to be exempt from the California Environmental Quality Act (CEQA) in accordance with the State CEQA Guidelines 15332 regarding in-fill development.

Project-Related Issues:

Municipal Code Conformance - The project requires a Planned Development Permit (PDP) [SDMC Section 126.0707(a)] and a Street Vacation to be consolidated and considered as a Process 5 decision (City Council) in accordance with SDMC 125.0940. A public right-of-way may be vacated only if the decision maker makes the findings referenced under SDMC 125.0941. An application for a Planned Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in SDMC 126.0604. The findings for the PDP and Right-of-Way Vacation are substantiated in the resolutions (Attachments 11-12). The proposed project has been demonstrated to conform to the regulations and requirements of the RS-1-7 zone and the Peninsula Community Plan and Local Coastal Program.

Community Planning Group Recommendation -

The Peninsula Community Planning Board considered the project on August 21, 2003 and voted 11-1-1 to recommend denial of the project) due to concerns about neighborhood parking and the need for the project to provide a public benefit; formal correspondence regarding the vote has note been received by staff to date (Attachment 13). Each home fronting Plum Street has a 2 car garage, providing adequate on-site parking. However, the area of Plum Street south of Carleton Street is occasionally used for non-designated parking by the four adjacent property owners. Parking will still be available, excepting the area to be vacated. Beyond this area of Plum Street most, if not all, homes in the neighborhood vicinity have adequate on-site parking for two cars, and visitors utilize on-street parking. Staff has surveyed the project area through a number of field visits to the site at various times of the day, and has observed that there is always an abundance of on-street parking available. There is no prospective use for the right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated. It is unlikely that Plum Street would be built to a full 40-foot width or widened at this location due to the limited properties it currently serves (3). Additionally, portions of the right-of-way to the south at Byron and Plum Streets were previously vacated in 1925 and 1965, and have steep slopes, so extending Plum Street southerly direction is highly unlikely. Staff supports that the project can meet the necessary finding that a public benefit will result from the right-of-way vacation, in that the public will benefit from the action through improved utilization of land made possible by the street vacation, and the City will be relieved of any liability or maintenance costs with the land reverting to private ownership.

Public Correspondence -

Correspondence from the public both in support and in opposition to the proposed vacation was received during the project review (Attachment 15).

Conclusion:

Staff finds that the project as proposed would be in accordance with the provisions of the Council Policy, the City's Municipal Code; the State Streets and Highways Code; the California Environmental Quality Act; the City's Progress Guide and General Plan; and the Peninsula Community Plan and Local Coastal Program Plan. Staff therefore recommends approval of the Planned Development Permit No. 84425 and approval of Right-of-Way Vacation No. 39220.

ALTERNATIVES

- 1. Recommend approval of Planned Development Permit (PDP) No. 84425 and Right-of-Way Vacation No. 39220 with modifications.
- 2. Recommend denial of Planned Development Permit (PDP) No. 84425 and Right-of-Way Vacation No. 39220 if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

Marcela Escobar-Eck

Deputy Director, Project Management Division

Development Services Department

Patricia J. FitzGerald
Development Project Manager
Development Services Department

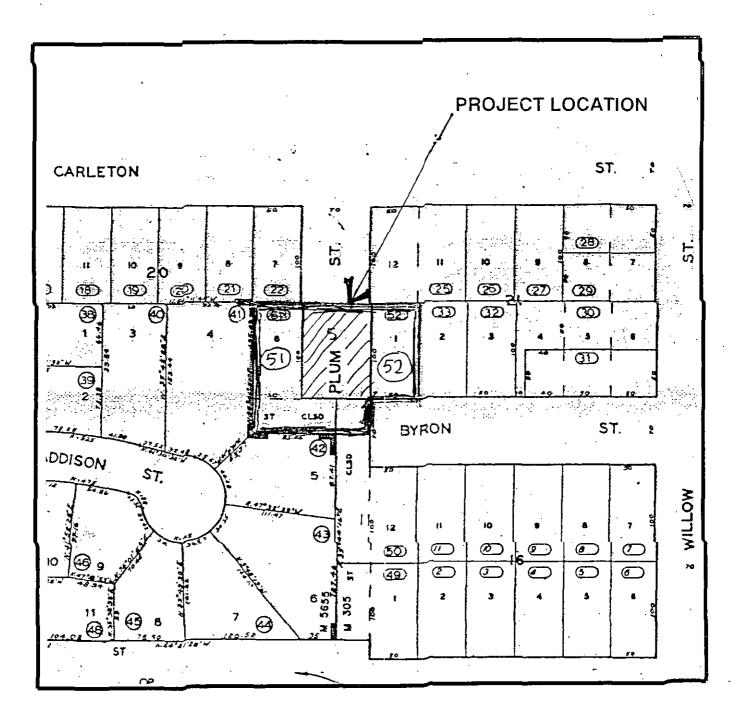
Attachments:

- 1. Location Map
- 2. Aerial Photograph
- 3. Community Plan Land Use Map
- 4. Right of Way Vacation Exhibit
- 5. Project Site Plan
- 6. Plum Street Looking South
- 7. Plum Street Looking North
- 8. Plum Street Photo History
- 9. Project Data Sheet
- 10. Draft PDP Permit with Conditions
- 11. Draft PDP Resolution with Findings
- 12. Draft SV Resolution with Findings
- 13. Community Planning Group Information
- 14. Ownership Disclosure Statement
- 15. Letters of Support/Opposition
- 16. Peninsula Public Views



PROJECT LOCATION

Peninsula: PLUM STREET VACATION - PROJECT NO. 6360 CITY OF SAN DIEGO · DEVELOPMENT SERVICES

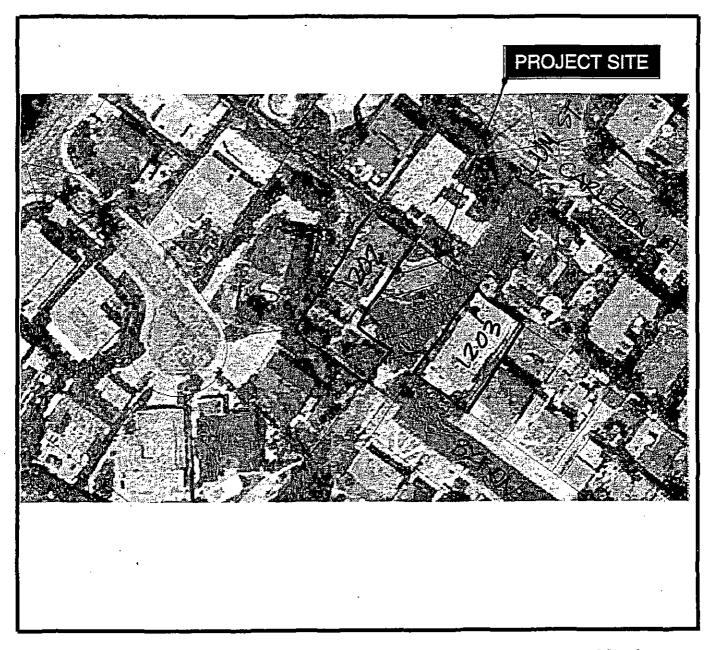




AERIAL PHOTOGRAPH

Peninsula: PLUM STREET VACATION - PROJECT NO. 6360

CITY OF SAN DIEGO · DEVELOPMENT SERVICES



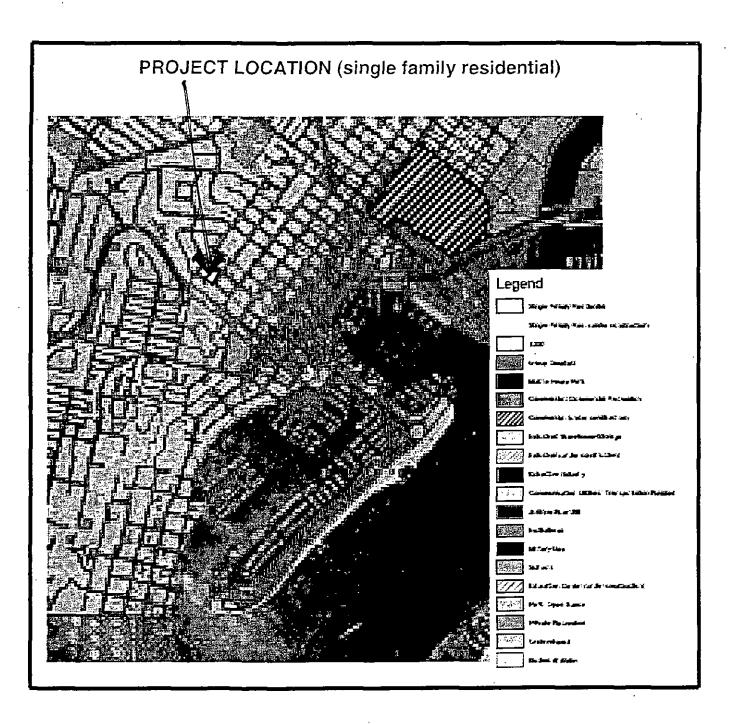
North 1

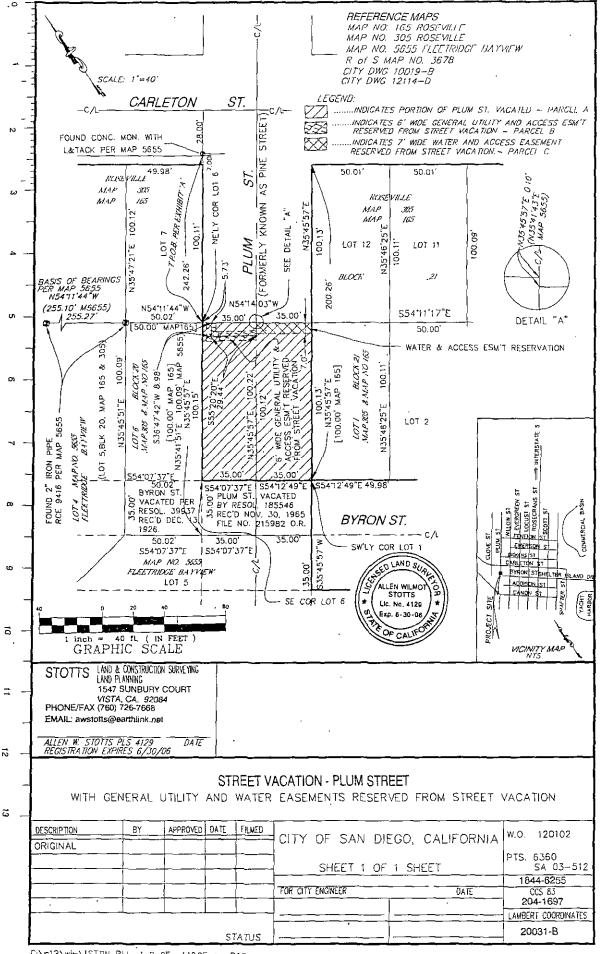


LAND USE

Peninsula: PLUM STREET VACATION - PROJECT NO. 6360

CITY OF SAN DIEGO · DEVELOPMENT SERVICES





STREET VACATION WITH GENERAL UTILITY AND ACCESS AND WATER EASEMENT RESERVATIONS

EXHIBIT "A"

PARCEL A

THAT PORTION OF PLUM STREET (FORMERLY KNOWN AS PINE STREET) AS SHOWN ON A MAP OF ROSEVILLE PER MAP NO. 165, FILED AUGUST 14, 1914 IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 2 INCH IRON PIPE WITH DISC MARKED RCE 9416 PER FLEETRIDGE BAYVIEW MAP NO. 5655 FILED NOVEMBER 26, 1965 AS FILE NO. 214353 IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, BEING THE MOST NORTHWESTERLY CORNER OF SAID MAP NO. 5655;

THENCE ALONG THE NORTHERLY LINE OF SAID MAP NO. 5655 SOUTH 54°11'44" EAST, ALSO BEING THE NORTHERLY LINE OF LOTS 1 THRU 6 OF BLOCK 20 OF SAID MAP 165, A DISTANCE OF 255.27 FEET TO A 2 INCH IRON PIPE WITH DISC MARKED RCE 9416 BEING THE NORTHWESTERLY CORNER OF LOT 6, BLOCK 20 OF SAID MAP 165;

THENCE CONTINUING SOUTH 54°11'44" EAST ALONG THE NORTHERLY LINE OF SAID LOT 6, BLOCK 20 A DISTANCE OF 50.02 FEET PER SAID MAP NO. 5655 (50.00 FEET PER SAID MAP 165) TO THE WESTERLY RIGHT-OF-WAY LINE OF PLUM STREET ALSO BEING THE NORTHEASTERLY CORNER OF SAID LOT 6, BLOCK 20, TO THE TRUE POINT OF BEGINNING:

THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID PLUM STREET ALSO BEING THE EASTERLY LINE OF SAID LOT 6 SOUTH 35°45'57" WEST TO THE SOUTHEAST CORNER OF SAID LOT 6 A DISTANCE OF 100.15 FEET (SOUTH 35°41'51" WEST 100.09 FEET PER SAID MAP NO. 5655) (100.00 FEET PER MAP 165), ALSO BEING THE NORTHWESTERLY CORNER OF THAT PORTION OF PLUM STREET AS VACATED AND CLOSED TO PUBLIC USE ON NOVEMBER 23, 1965 BY RESOLUTION NO. 185546 OF THE COUNCIL OF THE CITY OF SAN DIEGO RECORDED NOVEMBER 30, 1965 AS FILE/PAGE NO. 215982 OF OFFICIAL RECORDS;

THENCE SOUTHEASTERLY ALONG THE NORTHERLY LINE OF SAID VACATED PLUM STREET SOUTH 54°07'37" EAST 35.00 FEET TO THE CENTERLINE OF SAID PLUM STREET

THENCE CONTINUING SOUTHEASTERLY ALONG THE NORTHERLY LINE OF SAID VACATED PLUM STREET SOUTH 54°12'49" EAST 35.00 FEET TO THE EASTERLY LINE OF PLUM STREET, BEING ALSO THE SOUTHWESTERLY CORNER OF LOT 1, BLOCK 21 PER SAID MAP NO. 165;

THENCE NORTHEASTERLY ALONG THE EASTERLY LINE OF SAID PLUM STREET AND THE WESTERLY LINE OF SAID LOT 1 NORTH 35°45'57" EAST TO THE NORTHWESTERLY CORNER OF SAID LOT 1 A DISTANCE OF 100.13 FEET (100.00 FEET PER SAID MAP 165);

THENCE NORTHWESTERLY AT RIGHT ANGLES FROM SAID EASTERLY LINE OF SAID PLUM STREET NORTH 54°14'03" WEST 35.00 FEET TO THE CENTERLINE OF SAID PLUM STREET;

THENCE NORTHEASTERLY ALONG THE CENTERLINE OF SAID PLUM STREET NORTH 35°45'57" EAST 0.10 FEET (NORTH 35°41'43" EAST PER MAP NO. 5655) TO A POINT THAT IS ON A LINE THAT IS PERPENDICULAR TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID PLUM STREET;

1/3/2005

THENCE ALONG SAID PERPENDICULAR LINE NORTH 54°14'03" WEST 35.00 FEET TO A POINT ON THE WESTERLY LINE OF PLUM STREET BEING THE TRUE POINT OF BEGINNING.

PARCEL B

RESERVING THEREFROM A 6 FOOT WIDE GENERAL UTILITY AND ACCESS EASEMENT LYING 3 FOOT ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE NORTHEASTERLY CORNER OF AFOREMENTIONED LOT 6, BLOCK 20 OF SAID MAP 165 BEING ALSO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF AFOREMENTIONED PLUM STREET;

THENCE SOUTH 54°14'03" EAST ON A LINE THAT IS PERPENDICULAR TO THE WESTERLY RIGHT OF WAY LINE OF SAID PLUM STREET A DISTANCE OF 5.73 FEET TO THE TRUE POINT OF BEGINNING:

THENCE SOUTH 36°47'42" WEST 8.98 FEET;

THENCE SOUTH 55°20'20" EAST 29.44 FEET MORE OR LESS TO THE CENTERLINE OF SAID PLUM STREET;

SIDELINES OF SAID EASEMENT TO BE SHORTENED OR LENGTHENED TO INTERSECT WITH THE CENTERLINE OF SAID PLUM STREET AND THE AFOREMENTIONED PERPENDICULAR LINE.

PARCEL C

ALSO RESERVING THEREFROM A 7.00 FOOT WIDE WATER AND ACCESS EASEMENT ACROSS THE NORTHERLY 7.00 FEET OF THE EASTERLY 35.00 FEET.

Llc. No. 4129

ALL AS SHOWN ON ATTACHED PLAT, LABELED EXHIBIT "B"

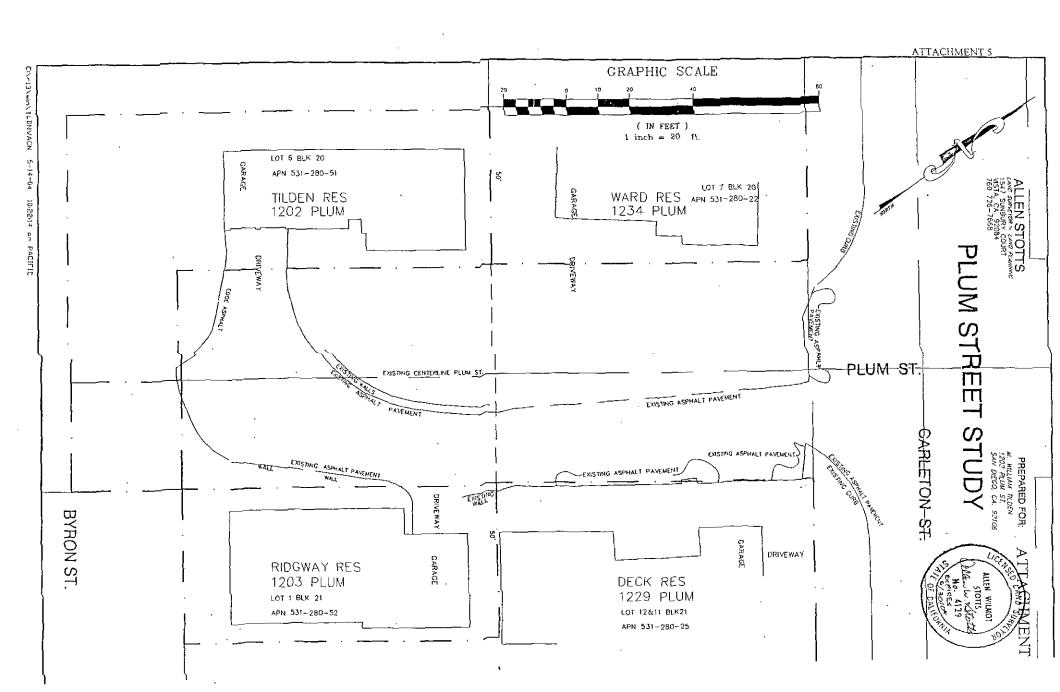
REF DWG: 20031-B

PTS 6360 SA 03-512

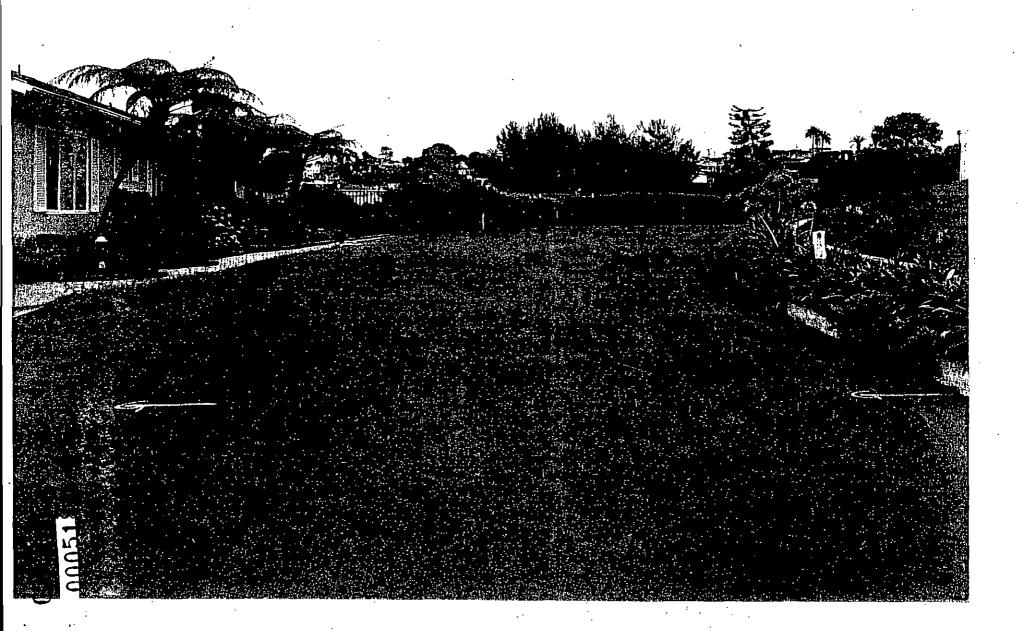
ALLEN W. STOTTS, LS 4129

DATE

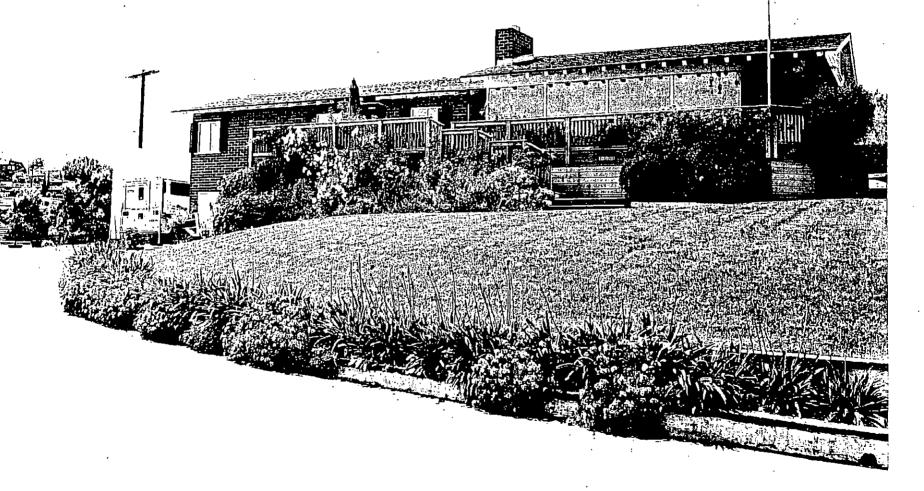
1/3/2005 2



Plum st- South end







000250

000521

Diane Murbach, Project Manager The City of San Diego Development Services 1222 First Ave. MS 302 San Diego, California 92101-3864

Re: Public Right of Way Vacations/PTS # 6360 Row Vacation Plum Street Job order # 120102

Dear Ms. Murbach:

My name is Holly Bonnett. In September 1959, my father and mother, Ben and Lorraine Hayward, purchased a home at 1202 Plum St. in Point Loma from Arthur Vesco. I was 15 at that time and lived there for 7 years.

Plum St. was paved with black top and had a short white wall with a brick cap at the edge of the pavement. I have seen the picture of the home taken in 2004. The wall in the picture is the same wall that was there in 1959 when my parents purchased the home.

If you have any questions, please feel free to contact me.

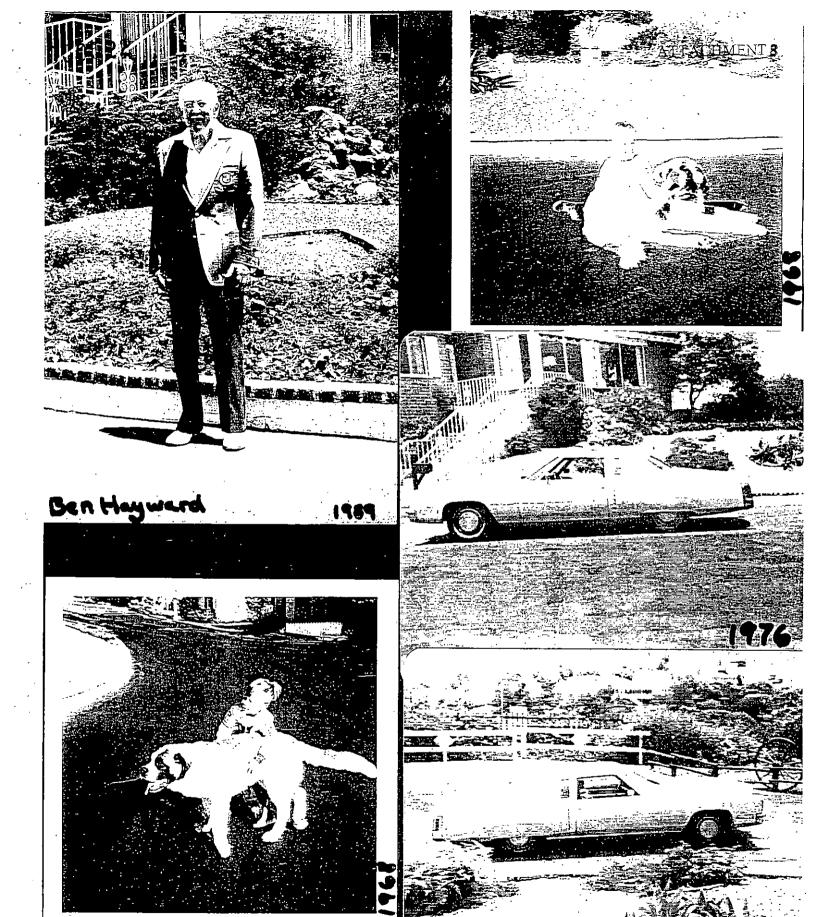
Sincerely.

Holly Bonnett PO Box 758

Pine Valley, CA 91962

(619)473-8353

c.c. Mr. Bill Tilden



18019 Almond Road Castro Valley, CA 94546 1-510-538-1437 May 11, 2004

Diane Murbach, Project Manager The City of San Diego Development Services 1222 First Avenue, MS 302 San Diego, California 92101-3864

Re: Public Right of Way Vacation/PTS # 6360 Row Vacation Plum Street Job order # 120102

Dear Ms. Murbach:

My name is John Vesco. In 1950, my father and mother, Arthur P. and Virginia Vesco, built a new brick home for our family at 1202 Plum Street in Point Loma, San Diego, California. My father was San Diego's chief electrical engineer. I was 10 years old at the time the house was built. I lived there until 1957 when I was 17 years old.

I remember that Plum Street was paved with black-top at that time just as it is today. I remember that I personally white-washed the short wall that defines the edge of the street. I can confirm that this wall that is in this picture taken in 2004 is the same wall that was built when the house was built in 1950 and that the street was paved to that wall just as it is today. I remember that the edge of the street from Carleton to where our wall began was a black top curb. I understand that it is still exactly that way. I remember the wonderful view of the bay from the living room. My father and mother had ivy in the front yard at that time.

I did not know that a portion of the front yard belonged to the city, however, given my father's position with the City of San Diego and the placement of the street relative to our home, I feel confident that my father was given permission to use the land for landscaping purposes.

Sincerely,

John Vesco

c.c. Mr. Bill Tilden

enc. Photograph of 1202 Plum Street, May, 2004

PROJECT DATA SHEET					
PROJECT NAME:	Plum Street Vacation				
PROJECT DESCRIPTION:	Planned Development Permit and Public Right-of-Way Vacation for the southerly 100 feet of the 70-foot wide right-of-way of Plum Street at 1202 and 1203 Plum Street				
COMMUNITY PLAN AREA:	Peninsula				
DISCRETIONARY ACTIONS:	Planned Development Permit				
COMMUNITY PLAN LAND USE DESIGNATION:	Residential				
ZONING:	RS-1-7				
ADJACENT PROPERTIES:	LAND USE DESIGNATION & ZONE	EXISTING LAND USE			
NORTH:	Single-family, RS-1-7	Single family homes			
SOUTH:	Single-family, RS-1-7	Single family homes			
EAST:	Single-family, RS-1-7	Single family homes			
WEST:	Single-family, RS-1-7	Single family homes			
DEVIATIONS OR VARIANCES REQUESTED:	Deviation to the RS-1-7 zone to allow a street frontage of 35'-0" for each of the lots resulting from the right-of-way vacation, where 50'-0" would be required.				
COMMUNITY PLANNING GROUP RECOMMENDATION:	The Peninsula Community Planning Board considered the project at their meeting on August 21, 2003 and voted (11-1-1) to recommend denial of the project due to concerns about neighborhood parking and the need to provide a public benefit.				

RECORDING REQUESTED BY

CITY OF SAN DIEGO CITY CLERK

WHEN RECORDED MAIL TO PERMIT INTAKE MAIL STATION 501

JOB ORDER NUMBER: 120102 SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED DEVELOPMENT PERMIT NO. 84425 PLUM STREET VACATION - PROJECT NO. 6360 CITY COUNCIL

This Planned Development Permit No. 84425 is granted by the City Council of the City of San Diego to M. WILLIAM AND PEGGY SUE TILDEN, Owners/Permittees, and SAM H. RIDGWAY AND JEANETTE F. RIDGWAY, Owners/Permittees, pursuant to the San Diego Municipal Code. The subject property is located at 1202 and 1203 Plum Street in the RS-1-7 zone within the Peninsula Community Plan Area. The project site is legally described as Lot 1, Block 21 and Lot 6, Block 20 of Maps 305 and 165.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/ Permittee to construct a new 350 room visitor hotel facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated _______, on file in the Development Services Department.

The project or facility shall include:

- a. Vacation of a 100-foot long portion of the public Right-of-way known as Plum Street south of Carleton Street, including a deviation from the RS-1-7 zone street frontage requirement to allow the newly created lots to provide 35 feet of frontage on Plum Street for the two subject properties where 50 feet is required;
- b. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Recordation of project documents in the office of the County Recorder must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the

City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

- 2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owners and Permittees sign and return the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
- 3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
- 4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
- 5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
- 6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
- 7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
- 8. Before issuance of any building permits, complete working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit A-______No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
- 9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order

to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

WATER REQUIREMENTS:

- 10. Prior to the recordation of the Street Vacation, issuance of any building permit or the approval of any final map the applicant shall cut and plug the water main in a manner which will receive operational acceptance by the Water Department, satisfactory to the Water Department Director. The cut and plug of the water main shall be located within the vacated Plum Street and remaining Byron Street rights-of-ways.
- 11. Prior to the recordation of the Street Vacation, issuance of any building permit or the approval of any final map the applicant shall abandon the water main in a manner which will receive operational acceptance by the Water Department, satisfactory to the Water Department Director. The water main abandonment shall be located within the vacated Plum Street rights-of-way and that portion of Byron Street rights-of-way which was previously closed.

PLANNING/DESIGN REQUIREMENTS:

- 12. Prior to the recordation of the Street Vacation the applicant shall provide evidence that a shared access agreement has been entered into between the Owners/Permittees to allow adequate ingress and egress to both properties from the Plum Street right-of-way, to the satisfaction of the City Engineer.
- 13. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.
- 14. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

ATTACHMENT 10

12. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

ENGINEERING REQUIREMENTS:

13. Prior to the recordation of the Street Vacation, issuance of any building permit or the approval of any final map the applicant shall provide an Encroachment Removal and Maintenance Agreement (EMRA) for any encroachments into the public right-of-way, to the satisfaction of the City Engineer.

INFORMATION ONLY:

• Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on _____.

DRAFT CITY COUNCIL RESOLUTION NO. ____ PLANNED DEVELOPMENT PERMIT NO. 84425 PLUM STREET VACATION - PROJECT NO. 6360

WHEREAS, M. WILLIAM AND PEGGY SUE TILDEN, Owner/Permittee, and SAM H. RIDGWAY AND JEANETTE F. RIDGWAY, Owner/Permittee, filed an application with the City of San Diego to vacote a 100-foot long portion of the public Right-of-way known as Plum Strect south of Carleton Street including a deviation from the RS-1-7 zone street frontage requirement to allow the newly created lots to provide 35 feet of frontage on Plum Street for the two subject properties where 50 feet is required (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 84425); and

WHEREAS, the project site is legally described as Lot 1, Block 21 and Lot 6, Block 20 of Maps 305 and 165, and is located at 1202 and 1203 Plum Street within the RS-1-7 zone of the Peninsula Community Plan are a; and

•
WHEREAS, the Planning Commission of the City of San Diego considered Planned Development Permit No. 84425 and Right-of-way Vacation No. 39220 and pursuant to Resolution NoPounties Planning Commission voted to recommend City Council approval of the project;
WHEREAS, the matter was set for public hearing on, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerting the same; and
WHEREAS, on, the City Council of San Diego considered Planned Development Permit No. 84425 and Right-of-way Vacation No. 39220 pursuant to the Municipal Code of the City of San Diego; NOW, THEREFORE
BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 84425 and Right-of-way Vacation No. 39220;
BE IT RESOLVED by the City Council of San Diego as follows:
That the City Council adopts the following written Findings, dated:

I. PLANNED DEVELOPMENT PERMIT FINDINGS:

1. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.

The project will not adversely affect the goals of the Peninsula Community Plan and Local Coastal Program and is consistent with the City of San Diego Progress Guide and General Plan. Plum Street at the project location is a partially improved paper street 70 feet in width

and 200 feet long running in an approximate north-south direction, of which the southerly 100 feet fronts the project sites. Plum Street currently dead ends along the frontage of the subject site and is not a through street. Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965); therefore, there is no existing right-of-way connecting Plum Street to Byron Street and no planned or through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Additionally, the Plan does not identify Plum Street as a protected view corridor.

2. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.

Plum Street at the project location is a partially improved paper street 70 feet in width and 200 feet long running in an approximate north-south direction, of which the southerly 100 feet fronts the project sites. An existing 27-foot wide road along the eastern edge of the right-of-way terminates in a non-standard cul-de-sac, providing access to three existing residential properties: 1234 Plum Street (southwest corner of Plum and Carleton Streets), and the two subject properties located at 1202 and 1203 Plum Street. A fourth home in the vicinity (1229 Plum) is located at the southeast corner of Plum and Carleton Streets and has access to it's driveway and 2 car garage via a curb cut fronting Carleton Street. The portion of Plum Street to remain would provide a 70'-0" wide and 100-foot deep right-of-way, with a 27' pavement width remaining for reasonable access to 1234 Plum Street. Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965); therefore, there is no existing right-of-way connecting Plum Street to Byron Street and no existing or planned through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify this segment of Plum Street as a pedestrian path, or as a key component of access and circulation in the community.

The permit prepared for the proposed residential development includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the City's Land Development Code in effect for this project. Such conditions have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. As a component of this project, a deviation is granted to the RS-1-7 zone to allow a street frontage of 35'-0" for each of the lots resulting from the right-of-way vacation, where 50'-0" would be required. Notwithstanding this specific deviation, the project will fully comply with the development regulations in effect for the subject property as described in Planned Development Permit No. 84425, and the regulations/guidelines pertaining to the subject property per the San Diego Municipal Code, including the land use and development standards of the underlying RS-1-7 zone. Under the terms of the aforementioned project conditions, the development will not be detrimental to the health, safety and general welfare of persons residing or working in the surrounding area.

3. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REGULATIONS OF THE LAND DEVELOPMENT CODE.

Specific conditions of approval require the continued compliance with all relevant regulations of the San Diego Land Development Code in effect for this site. As a component of this project, a deviation is granted to the RS-1-7 zone to allow a street frontage of 35'-0" for each of the lots resulting from the right-of-way vacation, where 50'-0" would be required. Notwithstanding this specific deviation, allowed through a Planned Development Permit, the proposed residential development will fully comply with the development regulations in effect for the subject property as described in Planned Development Permit No. 84425, and the regulations/guidelines pertaining to the subject property per the San Diego Municipal Code, including the land use and development standards of the underlying RS-1-7 zone.

4. THE PROPOSED DEVELOPMENT, WHEN CONSIDERED AS A WHOLE, WILL BE BENEFICIAL TO THE COMMUNITY.

The proposed right-of-way vacation along a portion of Plum Street and resulting modified lot configuration, when considered as a whole, will be beneficial to the community in that it will provide improved utilization of land made possible by the street vacation. Further, the City will be relieved of any liability or maintenance costs with the land reverting to private ownership. Although the project will modify the lot configuration of the subject properties, no new development is proposed and the resulting residential parcels will exhibit design compatible with the established scale of the existing neighborhood. Additionally, an agreement between the Owners/Permittees to be recorded on the subject properties provides for long term maintenance in perpetuity of the existing road and landscape areas within the right-of-way, which will enhance the aesthetic quality and character of the neighborhood in which the project is located.

5. ANY PROPOSED DEVIATIONS PURSUANT TO SECTION 126.0602(B)(1) ARE APPROPRIATE FOR THIS LOCATION AND WILL RESULT IN A MORE DESIRABLE PROJECT THAN WOULD BE ACHIEVED IF DESIGNED IN STRICT CONFORMANCE WITH THE DEVELOPMENT REGULATIONS OF THE APPLICABLE ZONE

As a component of this project, a deviation is granted to the RS-1-7 zone to allow a street frontage of 35'-0" for each of the lots resulting from the right-of-way vacation, where 50'-0" would be required. The proposed deviation is appropriate in this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone as it will provide improved utilization of land made possible by the street vacation without modifying the physical design of the area. Further, the City will be relieved of any liability or maintenance costs with the land reverting to private ownership. Through an agreement between the Owners/Permittees to be

recorded on the subject properties provides for long term maintenance in perpetuity of the existing road and landscape areas within the right-of-way, which will enhance the aesthetic quality and character of the neighborhood in which the project is located.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Council of the City of San Diego, Planned Development Permit No. 84425 is hereby GRANTED by the City Council of San Diego to the referenced Owners/Permittees, in the form, exhibits, terms and conditions as set forth in Planned Development Permit No. 84425, a copy of which is attached hereto and made a part hereof.

APPROVED: N	MICHAEL AC	SUIRRE, CIT	Y ATTORN	EY
Deputy City Att	orney			
A donted on:				

RESOLUTION NUMBER R-

ADOPTED ON	I

WHEREAS, Section 8300 et seq. of the California Streets and Highways Code provides a procedure for the vacation of public street easements by City Council resolution where the easement is no longer required; and

WHEREAS, the affected property owner has requested the vacation of a portion of Plum Street consistent with Planned Development Permit No. 84425; and

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Public Rights-of-Way Vacation No. 39220:

125.0941 Findings for Public Right-of-Way Vacation Approval:

1. THERE IS NO PRESENT OR PROSPECTIVE PUBLIC USE FOR THE PUBLIC RIGHT-OF-WAY, EITHER FOR THE FACILITY FOR WHICH IT WAS ORIGINALLY ACQUIRED OR FOR ANY OTHER PUBLIC USE OF A LIKE NATURE THAT CAN BE ANTICIPATED.

Plum Street at the project location is a partially improved paper street 70 feet in width and 200 feet long running in an approximate north-south direction, of which the southerly 100 feet fronts the project sites. An existing 27-foot wide road along the eastern edge of the right-of-way, which terminates in a non-standard cul-de-sac, provides access to three existing residential properties: 1234 Plum Street (southwest comer of Plum and Carleton Streets), and the two subject properties located at 1202 and 1203 Plum Street. A fourth home in the vicinity (1229 Plum) is located at the southeast corner of Plum and Carleton Streets and has access to it's driveway and 2 car garage via a curb cut fronting Carleton Street. The neighborhood was originally subdivided as part of the Roseville subdivision in 1914, however City records show that the paved area of Plum Street was first constructed in 1955. Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965); therefore, there is no existing right-ofway connecting Plum Street to Byron Street and no through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify this segment of Plum Street as a pedestrian path, or as a key component of access and circulation in the community. The end of Plum Street is not used as a view corridor or important community gathering place, and there is no

through access for pedestrians.

There is no capacity for the street to serve more than the three existing residences at 1203 and 1203 Plum Street (subject properties), and 1234 Plum Street (corner of Plum and Carleton Streets). Properties that currently take access from Plum Street would not be affected by the partial vacation of the right-of-way. The existing driveable width of Plum Street is approximately 27'-0" at its widest point and would not require relocation. The portion of Plum Street to remain would provide a 70'-0" wide and 100-foot deep right-of-way, with a 27' pavement width remaining for reasonable access to 1234 Plum Street. The partial right-of-way vacation would not precipitate a name change for the street, and would not adversely affect fire and life safety services. There is no present or prospective public use for the portion of Plum street public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.

2. THE PUBLIC WILL BENEFIT FROM THE ACTION THROUGH IMPROVISED USE OF THE LAND MADE AVAILABLE BY VACATION.

A public benefit will result from the 7,000 area of right-of-way vacation, in that the public will benefit from the action through improved utilization of land made possible by the street vacation, and the City will be relieved of any liability or maintenance costs with the land reverting to private ownership.

3. THE VACATION DOES NOT ADVERSELY AFFECT ANY APPLICABLE LAND USE PLAN.

The project will not adversely affect the goals of the Peninsula Community Plan and Local Coastal Program and is consistent with the City of San Diego Progress Guide and General Plan. Plum Street currently dead ends along the frontage of the subject site and is not a through street. Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965); therefore, there is no existing right-of-way connecting Plum Street to Byron Street and no planned or through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Additionally, the Plan does not identify Plum Street as a protected view corridor.

4. THE PUBLIC FACILITY FOR WHICH THE PUBLIC RIGHT-OF-WAY WAS ORIGINALLY ACQUIRED WILL NOT BE DETRIMENTALLY AFFECTED BY THE VACATION.

Plum Street at the project location is a partially improved paper street 70 feet in width and 200 feet long running in an approximate north-south direction, of which the southerly 100 feet fronts the project sites. An existing 27-foot wide road along

C00535 ATTACHMENT 12

the eastern edge of the right-of-way terminating in a non-standard cul-de-sac provides access to three existing residential properties: 1234 Plum Street (southwest corner of Plum and Carleton Streets), and the two subject properties located at 1202 and 1203 Plum Street. A fourth home in the vicinity (1229 Plum) is located at the southeast corner of Plum and Carleton Streets and has access to it's driveway and 2 car garage via a curb cut fronting Carleton Street. The neighborhood was originally subdivided as part of the Roseville subdivision in 1914, however City records show that the paved area of Plum Street was first constructed in 1955. Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965) and there is no existing right-of-way connecting Plum Street to Byron Street and no through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify this segment of Plum Street as a pedestrian path, or as a key component of access and circulation in the community. The vacation would not precipitate a name change for the street, and would not adversely affect access for fire or other emergency life safety services. This street has limited use and will not be extended. There are no present or future plans to construct a street in this area and easements will be reserved for existing utilities. Therefore, the public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the proposed vacation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of The City of San Diego, as follows:

- 1. That the portion of Plum Street, as described in the legal description marked as Exhibit "A," and as more particularly shown on Drawing No. 20031-B, labeled Exhibit "B", on file in the office of the City Clerk as Document No. RR-(to be assigned) which is by this reference incorporated herein and made a part hereof, is ordered vacated, reserving therefrom an easement for water utilities and general utilities, together with ingress and egress for those purposes.
- 2. Prior to the recordation of the Street Vacation, issuance of any building permit or the approval of any final map the applicant shall abandon the water main in a manner which will receive operational acceptance by the Water Department, satisfactory to the Water Department Director. The water main abandonment shall be located within the vacated Plum Street rights-of-

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way and that portion of Byron Street rights-of-way which was previously closed.

Prior to the recordation of the Street Vacation, issuance of any building permit or the 3.

approval of any final map the applicant shall cut and plug the water main in a manner which will

receive operational acceptance by the Water Department, satisfactory to the Water Department

Director. The cut and plug of the water main shall be located within the vacated Plum Street and

remaining Byron Street rights-of- ways.

4. That the City Clerk shall cause a certified copy of this resolution, along with Exhibits

"A" and "B", attested by him under seal, to be recorded in the office of the County Recorder.

APPROVED: MICHAEL AGUIRRE, City Attorney

By

Deputy City Attorney

SA: 39220

WO: 120102

Mar 02 04.02:57p

Conger, Dan and Cynthia

_ ITACHMENT

000537



City of San Diego Development Services 1222 First Ave., MS-302 San Diego, CA 92101 (619) 446-5210

Community Planning Committee Distribution Form Part 2

THE CITY OF BAN DIEGO						
Project Name: ST. VACATION POR PLUM STREET			Project Number 6360	Distribution Date 3/6/03.		
Project Scope: Coastal South, J.O. 120102. (Process 5) Public Right of Way Vacation for a portion of Plum St. South of Carleton St. in the Peninsula Community Plan area. Council District 2. Notice cards = 3. First and second stage submittal.						
Project Location 1202	Plum Street					
Applicant Name: William Tildin			Applicant Phone No. (619) 222-8001			
Related Projects						
Project Manager Diane Murbach		Phone Number 446-5042	Fax Number (619) 446-5499	E-mail Address DMurbach@sandlegu.gov		
Community Plan Peninsula Community Council District 2						
Existing Zone SFR	Proposed Zone SFE	Building Height	Number of Stories /	FAR		
Committee Recommendati bosed on lack of as described in	ons (To be completed for Initial Response Franking availability in CPUDD - 15# 125.17	riem): To Diny 5 nd the imprediate of 149.	treet vacation of	of Fluor Stirer		
□ Vote to Approve		Members Yes	Members No	Members Abstain		
□ Vote to Approve With Conditions Listed	belaw	Members Yes	Members No	Members Abstain		
□ Vote to Approve With Non-Binding Recommendations Listed Below		Members Yes	Members No	Members Abstain		
Vote to Deny		Members Yes //	Members No	Members Abstain		
□ No Action (Please specify, e.g., Need further information, Split vote, Luck of quorum, etc.)		□ Continued				
CONDITIONS:						
NAME Cynthia Consel		TITLE. (Law.				
SIGNATURE Pushis. Meer			DATE 8/31/03			
Attach Additional Pages	Pro Cit Des	Return Within 30 Days of I ofect Management Division y Of San Diego velopment Services Departn 2 First Avenue, MS 302	Distribution of Project Plan	x To:		

San Diego, CA 92101 Printed on recycled paper. This information is available in alternative formats for persons with disabilities. To request this document in alternative format, call (619) 446-5446 or (800) 735-2929 (TT). Be sure to see us on the WorldWide Web at www.sandiego.gov/development-services

ATTACHMENT 13



City of San Diego Development Services 1222 First Ave., MS-302 San Diego, CA 92101 (619) 446-5210

Community Planning Committee Distribution Form Part 1

Proposed Zone

SFR

THE CITY OF SAN DIEGO Project Name: ST. VACATION POR PLUM STREET Project Number Distribution Date 6360 3/6/03. Project Scope: Coastal South, J.O.120102. (Process 5) Public Right of Way Vacation for a portion of Plum St. South of Carleton St. in the Peninsula Community Plan area. Council District 2. Notice cards = 3. First and second stage submittal. Project Location 1202 Plum Street Applicant Name: William Tildin Applicant Phone No. (619) 222-8001 Related Projects Phone Number Project Manager Diane Murbach Fax Number E-mail Address DMurbach@sandiego.gov 446-5042 (619) 446-5499

Project Issues (To be completed by Community Planning Committee for initial review):

(See allacheil)

Community Plan Peninsula Community

1. Lack of parking available for neighbors on street.

Council District

汉

2. Lack ve "public benefit" as decribed in CP-600-15 \$125.0949

Existing Zone

SFR

3. Contradictory application of development rules."

4. Tilden & Ridge ways will be only beneficiaries of variation. The 1234 Rum, wards, note called police deticket cars of street (partially improved) with houses built on it, areates a deficit of parking availability.

is The facility for which the right of way in Sacquired includes needed on STREET PUBLIC PARKING which has not been put in ithe city now to kets neighbors to their net ment.

Attach Additional Pages If Necessary.

Return Within 30 Days of Distribution of Project Plans To: Project Management Division City Of San Diego Development Services Department 1222 First Avenue, MS 302

San Diego, CA 921011

Printed on recycled paper. This information is available in alternative formats for persons with disabilities. To request this document in alternative format, call (619) 446-5446 or (800) 735-2929 (TT). Be sure to see us on the WorldWide Web at www.sandiego.gov/development-services

000539

ATTACHMENT 13

Date: August 21, 2003

MEMORANDUM

To: LONG TERM PLANNING & DEVELOPMENT SERVICES DEPTS.

From: The Peninsula Community Planning Board

RE: 1202 Plum St. - Tilden Application for Street Vacation

Concerning the Tilden Application for Plum Street Vacation, the Tildens have been noticed of having already been in Violation of Encroachment on the Public Right of Way. The installation of a Retaining Wall and Deck into the Public's Right of Way has been clearly documented. The Peninsula Community Planning Board has no problems with private development of properties when the same development rules are applied uniformly to owners, but when a development, as proposed in writing (whether to us or to neighbors) and orally appears quite contradictory, as has been the case as witnessed by the majority of the Board of Directors of the PCPB during several on site and board meetings in this application, the public's rights and any existing and future deficit and detriments to thom, must be "carefully investigated" by both the PCPB and the City.

As the street vacation is under the PCPB's purview, the PCPB has expended considerable time and effort in the area and with area residents, examining the proposed vacation. The 1229 Plum Street property owner's guests have previously been "ticketed" by police on direction from 1234 Plum Street's owners. Each property owner has the right to expect two to three spots of available on-street public parking for their own or their guest's temporary use, comowhere near their properties. This previous action already proves that there is inadequate public parking for both neighbors and quests visiting in the SFR community.

In the previous Plum Stroot 'vacation,' (copies attached), the use of Plum St, "is proposed to be improved at a future date."

According to Council Policy CP-600-15, #125.0949, Findings for Public Right-of-Way Street Vacation and Easement Abandonments, as of 5/18/93, "A public right-of-way may be vecated ONLY if the decision maker makes the following findings:

- a. There is NO Present or Prespective PUBLIC USE for the Public Right-of-Way, either for the facility for which it was originally acquired or for ANY OTHER PUBLIC USE of a like nature that CAN BE ANTICIPATED.;
- b. The PUBLIC will BENEFIT from the action through IMPROVED USE OF THE LAND MADE AVAILABLE BY THE VACATION:
- c. The vacation does NOT ADVERSELY AFFECT ANY APPLICABLE LAND USE PLAN OR; AND
- d. The public facility for which the PUBLIC right-of-way was originally acquired will NOT be DETRIMENTALLY AFFECTED by the vacation."

Since apparently the Tildens and Ridgeways will be the ONLY parties who will 'benefit' from the vacation, as proposed, and this is located at a location with an existing and thereby ADVERSE parking DEFICIT on an inadequately wide street that the city has yet to remedy, and as the "facility" for which the right-of-way was acquired INCLUDED needed public ON STREET PARKING, which has not been put in, and As the 'removal' of the land from Public Ownership thereby removes any future land use of such needed 'public parking,' it is NOT a BENEFIT TO THE PUBLIC. It also puts the Burden of the public parking available for the 1203, 1202 properties' 'public parking' ONTO the 1229 property owner's 'Carleton St.' Frontage! This is a benefit only for one or two owners, and it is a DETRIMENT to other nearby property owners and thus, the Public in our community!

As Mr. Tilden's wife has expressed in writing, a "win-win" situation CAN occur for neighbors And the Public in this request. One such alternative would be to Require several parking spaces (3-4) of On Street Public Parking to be made available on the Plum Street Right-of-Way (of 70") for the neighbors and community. That requirement would be quite MINOR for the "added value" of the 'ownership' and partial land use of Part of the Street vacation by the Tildens. In addition, it would not come at the DETRIMENT of the Public's Parking need. The PCPB requests further negotiations with the Tildens be undertaken by the City Engineering Dept. and Staff in fulfilling the requirements of Council Policy #600-15.

OWNERSHIP DISCLOSURE

1202 Plum Street:

M. WILLIAM AND PEGGY SUE TILDEN, Owners

1203 Plum Street:

SAM H. RIDGWAY AND JEANETTE F. RIDGWAY, Owners

1270 Plum San Diego, CA 92106 May 24, 2004

Diane Murbach, Project Manager The City of San Diego Development Services 1222 First Avenue, MS 302 San Diego, California 92101-3864

To Whom It May Concern:

My wife and I are in the process of remodeling our home on Plum Street. We live north of Carleton and are three houses away from the Tilden home.

We are putting a lot of energy into our home. The neighborhood seems to be changing for the better with the remodeling and landscaping that is happening now to several homes in our area. We are happy to see this happen.

We are informed about the proposed "street vacation" at the south end of Plum Street and see this as a positive for the neighborhood. In fact, since the granting of the "street vacation" will result in the Tildens and Ridgways owning their front yards, their property values will rise which will boost ours as well. We had hoped to move into an area of rising property values, not declining ones.

We would like to go on record in support of the proposal to vacate the portion of Plum Street in front of 1202 and 1203 Plum.

Sincerely,

Phone # 619 546-6024

c.c. Bill Tilden Sam Ridgway

Re: Publ

Public Right of Way Vacation/PTS #6360 Row Vacation Plum Street

Job order # 120102

1 5

October 3, 2003

Subject:

1202 and 1203 Plum Street - Right of Way Vacation

PTS No. 6360, JO. No. 120102, S. A 03-512

TO WHOM IT MAY CONCERN:

I want to express my opinion that the granting of the Right of Way Vacation application will have no adverse effect on my property or our neighborhood. It will likely be an improvement to the area inasmuch as the owners of the vacated property will continue to take responsibility for its maintenance and beautification. I support the application.

Signature

Print Name

Address

1315 PLAM ST

50 CA 92106

3345 Byron Street San Diego, CA 92106 619-222-2725 May 25, 2004

Diane Murbach, Project Manager The City of San Diego Development Services 1222 First Avenue, MS 302 San Diego, CA 921101

To Whom It May Concern:

My name is Margaret Wylie. I live directly across the street from the Ridgways on Byron Street. Years ago, Plum Street from Byron to Canon was vacated. I received the portion of that vacation that abuts my property.

I am writing to say that I am in favor of the City of San Diego granting the vacation of the portion of Plum Street in front of 1202 and 1203 Plum.

Sincerely,

Margaret Wylie
Margaret Wylie

c.c. Sam Ridgway Bill Tilden

Re: Public Right of Way

Vacation/PTS #6360 Row Vacation Plum Street

Tow Vacation Fram Day

Job order # 120102

1256 Plum Street San Diego, CA 92106 June 1, 2004

P.J. Fitzgerald, Project Manager The City of San Diego Development Services 1222 First Avenue, MS 302 San Diego, California 92101-3864

To Whom It May Concern:

My name is Sean Kelly. I live on the north-west corner of Plum and Carleton. We have heard about the "street vacation" request by the Tildens and the Ridgways at 1202 and 1203 Plum. We understand that the reason they seek this is that the city has the right to widen Plum Street on the land in front of their houses. This land has been treated as their front yards and should continue to be used by them. There is no need to widen or extend Plum.

Plum Street to the south of the Ridgways and the Tildens has already been vacated many years ago. I do not see a disadvantage by allowing this street vacation request to be granted. I do see an advantage to the neighborhood as a whole to vacate the requested portion. We are therefore in favor of the street vacation.

Sincerely,

Sean Kelly

Phone # <u>619 - 269 - 1728</u>

c.c. Bill Tilden
Sam Ridgway

1202 Plum Street San Diego, California 92106 619-222-8001 May 25, 2004

P.J. Fitzgerald, Project Manager The City of San Diego Development Services 1222 First Avenue, MS 302 San Diego, California 92101-3864

Re: Public Right of Way Vacation/PTS # 6360

Row Vacation Plum Street

Job order # 120102

Dear Ms. Fitzgerald:

When we purchased our home at 1202 Plum Street in Point Loma, we were told by the owner, the realtor and the neighbors that we did not own the area included within a portion of our front yard. We were also informed that the yard and small wall along Plum Street in front of our home had been in place since the construction of the house in 1950. We were told that the city was aware of the use of the land and had effectively agreed to the use as evidenced by the design and construction of Plum Street between our home and 1203 Plum across the street. The street is constructed and looks more like a common driveway as compared to a "normal" city street.

Our first indication of a contrary view came when Patty Deck, our neighbor who lives at 1229 Plum complained to the city about our use of the area and we were sent a Notice of Encroachment on 02/19/02. To clarify our property lines, we employed a licensed surveyor to delineate the boundaries of the street and our property. (copy enclosed). We were surprised by the street's position and discussed our "encroachments" with a city engineer. We were told that there was no EMR on file and we would either need an EMR or a Street Vacation. On further review, we believe that in effect we already have an EMR based on information dating back to 1950. In other words, we have what amounted to a 1950's implied EMR... no paperwork, but an understanding evidenced by actions taken by both the city and the chain of 1202 Plum Street owners.

Because we want to have the paperwork reflect the defacto EMR and permanently own our front yard, we filed the Street Vacation Application on 02/25/03 and have proceeded with the application.

The front yard of our neighbor to the north of us (1234 Plum Street) is similar to ours and contains similar encroachments on the "paper portion" of Plum Street. Questions about his encroachments were reported to us by the city as being satisfied because of landscape sketches in the original drawing for construction of his house. Apparently, the existence of this information was sufficient to show an implied EMR as of the date of the construction of his house in the 1970's.

Believing that our longstanding agreement with the city regarding our front yard is entitled to equal treatment, we searched for similar evidence of agreement with the city.

We found:

- The city does not keep architectural drawings of buildings prior to 1955 on record in their files. Therefore, there were no plans of our home and yard, which was built in 1950.
- There were no permits on file at the city for homes or landscaping before 1955. Therefore, records of our house show no permits of any kind for our yard.
- There were no "EMR" permits in 1950.
- The historical information from the City's Street Division regarding the building of Plum Street shows information from 1955 to present. Nothing is filed for dates prior to 1955.
- According to Gene Matter, Associate Engineer-Civil Street Division, City of San Diego, "It appears that the street was never improved the entire width, but for 27 feet only." (See attached letter and computer printout)
- According to John Vesco, the son of the original owner and builder of 1202 Plum, and Holly Bonnett, the daughter of the second owner of 1202 Plum, the street was built exactly in this configuration and has not changed from the time the house was built. The low, curving wall at the east edge of the property in front of our home abutting the pavement is in the same place relative to the street's paved edge as it was when the house was built. (See attached letters and photos)
- Plum Street was originally constructed and has been maintained by the city alongside the landscaped boundary in a manner consistent with an agreement authorizing such use. The street follows the low curving wall and appears more like a driveway than a street.
- The four owners of 1202 Plum Street have used the area within the curving wall for over 54 years in reliance on the agreement. All of the landscape improvements current and past have been done within the curving wall.

From this information, we conclude that we and previous owners of 1202 have had an implied EMR agreement with the city to use the land as it has been used since 1950. Therefore there are no unauthorized uses on this land. We are respectfully requesting that the city acknowledge this and "grandfather" the land in front of our home just as the city has done for the owners of 1234 Plum whose home was built in the 1970's.

Although we believe we have a grandfathered EMR, we are one year and three months in the process of application for street vacation (co-applicants are the Ridgways at 1203 Plum) as was suggested by the Development Services Department. The city processed our application through several review processes – each time we agreed to the changes suggested by staff and submitted the required data. All of the Project Assessment Reports state that staff will recommend to the city council approval of our request for street vacation and variance regarding front footage. To date, we have spent over \$15,000.00 toward the process.

Our simple goal is to own our front yards. We never again want anyone to question our use of this area as Ms. Deck has done. We feel that this would not only benefit 1202 and 1203 by permanently clearing up any questions of encroachment but we feel this would be a benefit to the city as well. We do not intend to move the street from its current location. As per our agreement with the Ridgways (copy enclosed), we will not build within a 29 foot set-back measured from what is now the center line of Plum Street and would be the common boundary of 1202 and 1203 Plum Street if the vacation is granted. We would be willing to have this setback included as a restriction in the grant of street vacation so as to make it enforceable by the city and the neighborhood.

We would take over the care and maintenance of the street in between our two homes and the water line within the vacated street will be abandoned. In a very small way, this would help the city in its financial crisis. We feel this would be a benefit to the neighborhood as a whole. By owning our own front yards, we are encouraged to keep them well maintained. We do not see a detriment to the neighborhood or our neighbors.

We request that you continue to process a variance to the required 50 foot minimum street frontage as a level three process and place the street vacation on the city council calendar (level five).

Sincerely.

Peggy Sue and Bill Tilden

c.c. Diane Murbach

000548

ATTACHMENT 15

3413 Carleton Street San Diego, CA. 92106 May 24, 2004

To Whom It May Concern,

I am a neighbor of 1202 Plum Street and would like to express opposition to the granting of a Street Vacation for which the owners of this address have applied. I do not feel that additional development rights be given to the owners of this property as this will adversely affect all the surrounding houses. The owners have already done much development on their land which is impacting the neighbors. Please consider my request to deny the Street Vacation. Thank you very much.

Sincerely,

Betty Westfall

IO: Diane Murbach City Project Manager

Project Name Row Vacation Plum Street # 6360

Subject: Project Opposition Comments:

1. The Plum street vacation would not be a benefit for the public and neighborhood. All The negative effects for the property owners not part of the vacation are not possible to predict at this time. In addition, Future Point Loma traffic conditions may require Plum street to be opened for public use in some form to relieve traffic and parking congestion. Therefore The only beneficiaries of the vacation are the applicants.

2. Important problems to be resolved

- A Traffic flow and impact
- B Parking
- C. Fire, ambulance, police vehicle access
- D Trash collection
- E Street maintenance
- F Utility maintenance
- G Safety
- H Signs and location
- 3. The Plum street vacation will close access to the existing cul-de sac turn around at the end of the street. This would present a safety hazard when vehicles back into busy Carleton street to exit. Although a closed street sign is now in place, vehicles enter the street frequently.
- 4. For over 30 years the subject street (1200 block of Plum) has functioned without problems. Application for, and city Approval of a encroachment permit to allow the continued existence of the planter box wall and lights in front of 1202 Plum street house would be a simple, practical solution and provide benefits for all residents on the block. The encroachment permit should have been obtained at the time of construction (2001/2002) so this would not be a new requirement and burden.

The street vacation as proposed would not be a benefit to the public, neighbors, or neighborhood and should not be approved.

FAX 619 446 5499 Submitted By
Theodore Ward 3/27/04
1234 Plum street San Diego ca. 92106

.

ATTACHMENT 1

3430 Addison St. San Diego, CA 92106 March 1, 2004

To Whom It May Concern,

06:31 PM

We are neighbors of 1202 Plum Street and share a property line. We would like to express our opposition to the granting of the Street Vacation for which they have applied. We do not feel that additional development rights be given particularly in light of the amount of the development in which they are currently undertaking on their property. It is infringing upon our property and we are concerned. We do not want to see more development of the land.

If the City does grant the Street Vacation we would like to request a building restrictive easement for that portion be granted so that the property owner cannot construct any, building or structure within that area. Mr. Tilden is an attorney who specializes in mining and public land law and is stretching the code allowances during other construction on his property. Please consider our request to deny the Street Vacation. Thank you very much.

Sincerely, Lissa Brown Michael Ponczocha March 9, 2004

Diane Murbach, Project Manager The City of San Diego **Development Services** 1222 First Avenue, MS 302 San Diego, California 92101-3864

Re: public right of way vacation/PTS#6360 row vacation plum street job order #120102

Dear Ms. Murdach:

As per your request, I am writing to STOP the acquisition and closure of Plum Street.

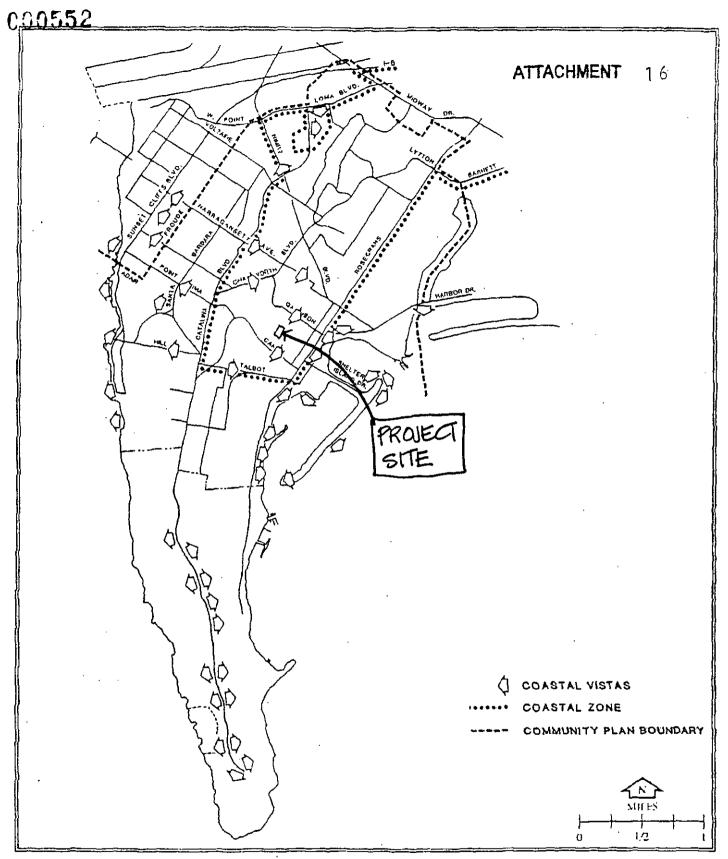
I am a resident at 1229 Plum Street. At this writing, we have INADEOUATE PARKING for the four residents cul-de-sac. Unfortunately, we have a limited sized street (17 feet wide/map enclosed). In the event of a medical emergency under normal circumstances, we do not have adequate space for a fire truck and an ambulance which travel together by law. The residents of this cul-de-sac have multiple vehicles to include an electric car, boats and a recreational vehicle. I had a house guest who was ticketed for parking more than three days. The house guest was parked in front of my home on Plum Street.

I attended meetings conducted by the Peninsula Community Planning Group. I found the information provided by William Tilden to be inconsistent. I do not trust that further development would not be in the best interest of our community. Enclosed find a letter I received from Peggy Sue Tilden following a Peninsula Community Planning meeting. This letter seems to indicate the Tilden's financial ambitions in developing the proposed Plum Street vacation.

I see no community benefit to this proposed project. In addition, I am requesting that the street be reinstated to a FULL size street as two residents have built their property/front yards to extend into the street.

Sincerely.

Patricia Deck





COASTAL VIEWS

Peninsula Community City of San Diego-Planning Department Stem no: 11

PLANNING COMMISSION OF THE CITY OF SAN DIEGO MINUTES OF REGULAR SCHEDULED MEETING OF JANUARY 27, 2005 IN CITY COUNCIL CHAMBERS - 12TH FLOOR CITY ADMINISTRATION BUILDING

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Vice-Chairperson Schultz at 9:00 a.m. Vice-Chairperson Schultz adjourned the meeting at 6:45 p.m.

ATTENDANCE DURING THE MEETING:

Chairperson-vacant

Vice-Chairperson Barry Schultz-present

Commissioner Carolyn Chase-present

Commissioner Kathleen Garcia-present

Commissioner Gil Ontai-present

Commissioner Dennis Otsuji-present

Commissioner Mark Steele-present

Mary Wright, Planning Department-not present

Bob Manis, Planning Department-present

Gary Halbert, Development Services .

Mary Jo Lanzafame, City Attorney-not present

Prescilla Dugard, City Attorney-present

William Witt, City Attorney-present

Linda Lugano, Recorder-present

ITEM-10: CONNOLLY RESIDENCE – PROJECT NO. 3760.

Patrick Hooper presented Report to the Planning Commission No. PC-05-056.

Testimony in favor by David Lee Soanes.

No one present to speak in opposition.

Public testimony was closed.

COMMISSION ACTION:

MOTION BY GARCIA TO CONTINUE TO APRIL 21, 2005 SO THE PROJECT CAN BE RE-DESIGNED TO MEET THE SIDEYARD SET BACKS; It was requested that a map be provided that reflects the split zoning on the property. Second by Chase. Passed by a 6-0 vote.



PLUM STREET RIGHT-OF-WAY VACATION - PROJECT NO. 6360

P. J. Fitzgerald presented Report to the Planning Commission No. PC-05-007.

Testimony in favor by M. William Tilden.

Testimony in opposition by Cynthia Conger, Maggie Valentine, Tom Wurfl, Patricia Deck, Ted Ward, Lissa Brown and Mike Ponczocha.

Public testimony was closed.

COMMISSION ACTION:

MOTION BY STEELE TO RECOMMEND TO THE CITY COUNCIL THAT THEY APPROVE STAFF'S RECOMMENDATIONS WITH THE GRANTING OF A 58 FOOT BUILDING RESTRICTED EASEMENT FROM THE PROPOSED STREET VACATION. Second by Ontai. Passed by a 4-2 vote with Vice-Chairperson Schultz and Commissioner Chase voting nay.

EXHIBIT "A"

STREET VACATION - PLUM STREET

THE SOUTHWESTERLY ONE-HALF OF PLUM STREET (FORMERLY KNOWN AS PINE STREET), ADJOINING LOT 6 IN BLOCK 20 OF ROSEVILLE, ACCORDING TO THE MAP THEREOF NO. 165, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY BEING BOUNDED ON THE SOUTHWEST BY THE NORTHEASTERLY LINE OF A PORTION OF PLUM STREET AS VACATED ON NOVEMBER 23, 1965 BY RESOLUTION NO. 185546 OF THE COUNCIL OF THE CITY OF SAN DIEGO RECORDED NOVEMBER 30, 1965 AS FILE NO. 215982 OF OFFICIAL RECORDS, AND BOUNDED ON THE NORTHEASTERLY BY A LINE FIXED PERPENDICULAR FROM THE CENTERLINE OF SAID PLUM STREET AND TERMINATING AT THE NORTHEASTERLY CORNER OF SAID LOT 6.

RESERVING THEREFROM A SIX-FOOT WIDE GENERAL UTILITY ACCESS EASEMENT OVER ALL THAT PORTION OF SAID SOUTHWESTERLY ONE HALF OF PLUM STREET, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 6; THENCE LEAVING SAID CORNER AND CONTINUING ALONG THE NORTHEASTERLY LINE OF THE HEREINABOVE DESCRIBED PARCEL "A," SOUTH 54°14'03" EAST A DISTANCE OF 5.73 FEET TO THE TRUE POINT OF BEGINNING;

THENCE LEAVING SAID LINE, SOUTH 36°47'42" WEST A DISTANCE OF 8.98 FEET; THENCE SOUTH 55°20'20" EAST A DISTANCE OF 29.44 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF SAID SOUTHWESTERLY ONE-HALF OF PLUM STREET.

THE SIDELINES OF SAID EASEMENT SHALL BE LENGTHENED OR SHORTENED SO AS TO TERMINATE IN THE NORTHEASTERLY LINE AND THE SOUTHEASTERLY LINE OF PARCEL "A" AS DESCRIBED ABOVE.

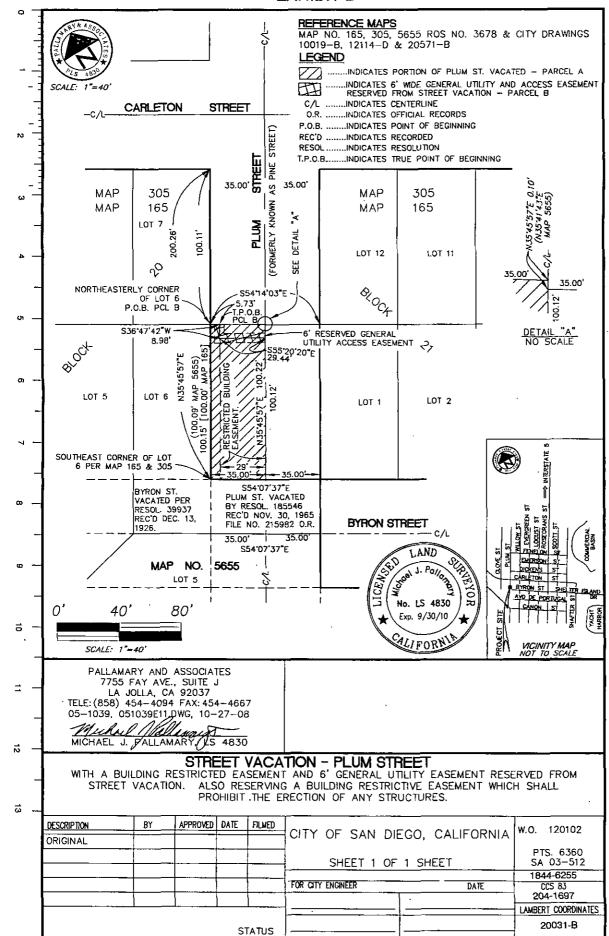


Michael J. Pallamary

051039 VACATION DESCRIPTION EXHIBIT A_&_B.DOC

102708

EXHIBIT B



000557 (R-2009-578)

RESOLUTION NUMBER R	
DATE OF FINAL PASSAGE	

PLUM STREET RIGHT-OF-WAY VACATION – PROJECT NO. 6360.

WHEREAS, California Streets and Highways Code section 8330 et seq. provides a procedure for the summary vacation of streets by City Council resolution where the portion of street to be vacated consists of a portion of street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another; and

WHEREAS, the abutting property owner has requested the vacation of a half-width portion of Plum Street adjacent to 1202 Plum Street, Lot 1, Block 21, Subdivision Map 305, to facilitate development of their property; and

WHEREAS, this action is exempt from the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines Section 15301; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on _______, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, that the Council of the City of San Diego finds that:

(a) There is no present or prospective use for the public right-of-way to be vacated, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated. Plum Street at the project location is a partially improved paper street 70 feet in width and 200 feet long running in an approximate north-south direction, of which the southerly 100 feet fronts the project site. An existing 24-foot wide road along the eastern edge of the right-ofway terminates in a non-standard cul-de-sac, providing access to two existing residential properties: 1203 Plum Street and the subject property located at 1202 Plum Street. The portion of Plum Street to remain would provide a 35 foot wide and 100 foot deep right-of-way, with a 24-foot pavement width which would continue to provide reasonable access to 1202 and 1203 Plum Street. Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution No. 39937 (1926) and Resolution No. 185546 (1965). Therefore there is no existing right-of-way connecting Plum Street to Byron Street and no existing or planned through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify this segment of Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Plum Street currently dead ends along the frontage of the subject site and is not a through street. The unimproved portion of Plum Street proposed to be vacated is a remnant piece of right-of-way that has no connectivity to any other street. As stated above, portions of Plum Street at Byron Street to the south have previously been vacated through Resolution No. 39937 (1926) and Resolution

000559 (R-2009-578)

No. 185546 (1965). As such, there is no existing right-of-way connecting Plum Street to Byron Street and no existing or planned through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify this segment of Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Additionally, the Plan does not identify Plum Street as a protected view corridor. Since the adjoining sections of Byron Street to the southwest and the section of Plum Street that connected Byron Street was vacated, the remaining 35 foot wide easements with an improved width of 24 feet does not comply with current street design standards for a street right-of-way. The remnant portion of the right-of-way proposed to be vacated is comprised of a small retaining wall, a planter and irrigated sloping lawn. This section could not be readily improved for vehicular travel and is not safe for pedestrian access; and

- (b) The public will benefit from the vacation through improved utilization of land because the City of San Diego would be released from any liability and maintenance associated with the substandard right-of-way. The historical occupancy would be confirmed avoiding future conflicts and the vacated land would be included in the property tax rate base for 1202 Plum Street; and
- (c) The vacation does not adversely affect the General Plan or an approved

 Community Plan because the portion of right-of-way proposed to be vacated is

 not identified in the Peninsula Community Plan as a public view corridor or a

 segment of the transportation element; and

C00560 (R-2009-578)

(d) The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this partial vacation because the proposed vacation would not remove any existing improved street parking and would not remove any on-street parking. The proposed partial vacation would not affect the circulation pattern of the existing street system because the current 24-foot wide improved street and a dead end cul-de-sac would remain.

BE IT FURTHER RESOLVED, that the Council of the City of San Diego finds that:

- 1. The half-width portion of Plum Street adjacent to 1202 Plum Street, legally described as Lot 1, Block 21, Subdivision Map No. 305, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20031-B, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos. RR-______, and RR-_____, which are by this reference incorporated herein and made a part hereof, is ordered vacated.
- 2. The City of San Diego hereby reserves and excepts the right, easement, and privilege of placing, constructing, repairing, replacing, maintaining, using and operating public utilities of any kind or nature, including, but not limited to general utilities and all necessary and proper fixtures and equipment for use in connection therewith, through, over, under, upon, along, and across the hereinafter described easement, together with the right of ingress thereto and egress therefrom, together with the right to maintain the said easement free and clear of any excavation or fills, the erection or construction of any building or other structures, the planting of any tree or trees thereon, or the drilling or digging of any well or wells thereon, together with the right to otherwise protect from all hazards the operation and use of any right hereby reserved. Upon acquisition of encroachment permit from the City Engineer pursuant to the Municipal Code of

COO561 (R-2009-578)

the City, the owners of the underlying fee may utilize the above described parcel of land for structures, the planting or growing of trees, or the installation of privately owned pipelines.

- 3. That the Owner/Permittee shall within sixty days of the approval of the vacation either remove the encroachment(s) that extend beyond center line of Plum Street, or apply for and diligently process a Site Development Permit [SDP] to retain the encroachment(s). In the event that the SDP is not approved by the City, then Owner/Permittee shall remove the encroachment(s) within forty-five days of such denial.
- 4. City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

Keith Bauerle

Deputy City Attorney

KB:pev 11/03/08

Or.Dept:DSD R-2008-578

MMS #6987

EXHIBIT "A"

STREET VACATION - PLUM STREET

THE SOUTHWESTERLY ONE-HALF OF PLUM STREET (FORMERLY KNOWN AS PINE STREET), ADJOINING LOT 6 IN BLOCK 20 OF ROSEVILLE, ACCORDING TO THE MAP THEREOF NO. 165, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY BEING BOUNDED ON THE SOUTHWEST BY THE NORTHEASTERLY LINE OF A PORTION OF PLUM STREET AS VACATED ON NOVEMBER 23, 1965 BY RESOLUTION NO. 185546 OF THE COUNCIL OF THE CITY OF SAN DIEGO RECORDED NOVEMBER 30, 1965 AS FILE NO. 215982 OF OFFICIAL RECORDS, AND BOUNDED ON THE NORTHEASTERLY BY A LINE FIXED PERPENDICULAR FROM THE CENTERLINE OF SAID PLUM STREET AND TERMINATING AT THE NORTHEASTERLY CORNER OF SAID LOT 6.

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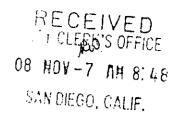
Michael J. Pallamary

051039 VACATION DESCRIPTION EXHIBIT A_&_B.DOC

102708

STATUS

LAMBERT COORDINATES 20031-B 3510 Emerson Street San Diego, California 92106 November 6, 2008



Mayor and City Council
Attn: City Clerk
City of San Diego
City Administration Building
202 "C" Street
Mail Station 2A
San Diego, California 92101-3862

RE: PROJECT 6360- PLUM STREET RIGHT-OF-WAY

Dear Mayor Sanders and Honorable City Council:

We are Barbara and Tom Tourtellott who live at 3510 Emerson Street, Point Loma, San Diego, California 92106. We live just a few blocks from the Tildens, who reside at 1202 Plum. For some time, we have walked through the cul-de-sac and around the neighborhood at least 2-3 times a week. We have never seen a parking issue in this area.

We believe the area in front of the Tilden's home should be vacated so that the owners of their property at 1202 Plum will continue to keep the area up for the benefit of the neighborhood. We have also noticed that there are many other areas in Point Loma which should be considered to be vacated.

The action would be to approve the street vacation.

Sincerely,

Thomas E. Tourtellott 619 223-1905 Home

PETERSON & PRICE

A PROFESSIONAL CORPORATION

EDWARD F. WHITTLER MARSHAL A. SCARR MATTHEW A. PETERSON LARRY N. MURNANE CHRISTOPHER J. CONNOLLY ELOISE H. FEINSTEIN MIRANDA M. BORDSON AMY M. STRIDER

CHRISTOPHER R. MORDY

LAWYERS

655 West Broadway, Suite 1600 San Diego, CA 92101-8494 Telephone (619) 234-0361 Fax (619) 234-4786 OF COUNSEL
PAUL A. PETERSON

www.petersonprice.com

File No. 6859.001

November 11, 2008

Council President Scott Peters & Members of the City Council 202 "C" Street, 10th Floor San Diego, CA 92101

> Re: Plum Street Right-of-Way Vacation Project No. 6360 Monday November 17th, 2008

Dear President Peters and Members of the City Council:

We represent Bill and Peggy Sue Tilden with regard to the above referenced matter. Our clients purchased their home at 1202 Plum Street in the spring of 2000. As you can see from attached Tab 1, the previous owners (dating back to the 1950's and earlier) had utilized a portion of the unimproved Paper Street for their front yard, walkway, and access to their front door.

Tab 2 is a series of photographs, which date back to 1968 indicating that the area in question has always been utilized as the front yard of 1202 Plum Street.

We are requesting that the City Council authorize a partial vacation of Plum Street so that our clients may continue to utilize and maintain the area as they have for years. The improved (paved) portion of Plum Street will <u>not</u> be modified or altered in any way. The paved street will continue to provide access to the two houses exactly the same way as the street has been utilized for over 50 years. (See Tab 3, the aerial photograph)

Council President Scott Peters & Members of the City Council November 11, 2008

Page 2

City staff has determined that the unimproved portion of Plum Street that is to

be vacated is not necessary for any City purpose. (See Tab 4)

The right-of-way is excess and would not, and could not, connect to any public

street to the south. You will note that Plum Street, south of the unimproved right-of-

way, was vacated back in 1965. Byron Street, the intersecting street to the south, was

also vacated back in December of 1926.

On January 27th, 2005, the Planning Commission recommended that the City

Council approve the vacation. The Planning Commission also requested a Building

Restricted Easement across a portion of the vacated right-of-way. Our clients have

agreed to that building restriction. It is reflected on the easement vacation plat. (See

Tab 4, reference to a "Restricted Building Easement")

Based upon the historic use of the property and the fact that the City has no

present or future need for the excess right-of-way, we respectfully request that the City

Council approve the partial vacation of Plum Street as recommended by your staff.

Thank you for your courtesy.

Sincerely,

PETERSON & PRICE

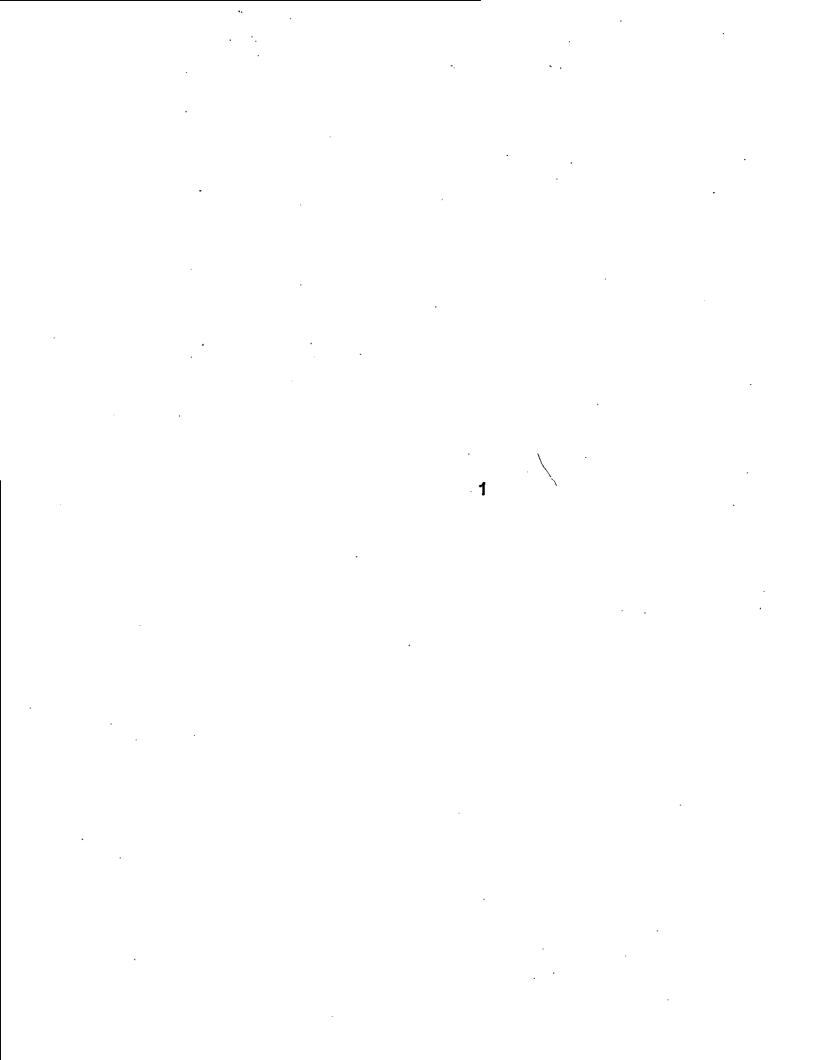
A Professional Corporation

Matthew A. Peterson

CC:

Elizabeth Maland, City Clerk
Michael Aguirre, City Attorney
Patrick Hooper, Project Planner

Patrick Hooper, Project Planner Bill & Peggy Sue Tilden



18019 Almond Road Castro Valley, CA 94546 1-510-538-1437 May 11, 2004

Diane Murbach, Project Manager The City of San Diego Development Services 1222 First Avenue, MS 302 San Diego, California 92101-3864

Re: Public Right of Way Vacation/PTS # 6360 Row Vacation Plum Street Job order # 120102

Dear Ms. Murbach:

My name is John Vesco. In 1950, my father and mother, Arthur P. and Virginia Vesco, built a new brick home for our family at 1202 Plum Street in Point Loma, San Diego, California. My father was San Diego's chief electrical engineer. I was 10 years old at the time the house was built. I lived there until 1957 when I was 17 years old.

I remember that Plum Street was paved with black-top at that time just as it is today. I remember that I personally white-washed the short wall that defines the edge of the street. I can confirm that this wall that is in this picture taken in 2004 is the same wall that was built when the house was built in 1950 and that the street was paved to that wall just as it is today. I remember that the edge of the street from Carleton to where our wall began was a black top curb. I understand that it is still exactly that way. I remember the wonderful view of the bay from the living room. My father and mother had ivy in the front yard at that time.

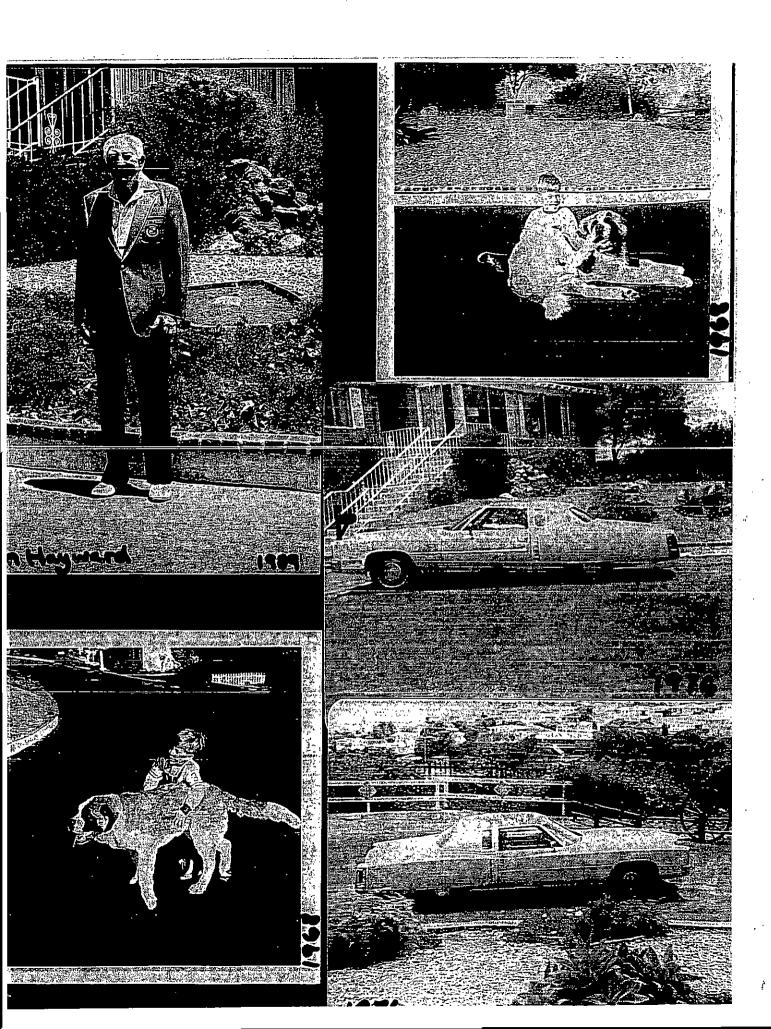
I did not know that a portion of the front yard belonged to the city, however, given my father's position with the City of San Diego and the placement of the street relative to our home, I feel confident that my father was given permission to use the land for landscaping purposes.

Sincerely.

John Vesco

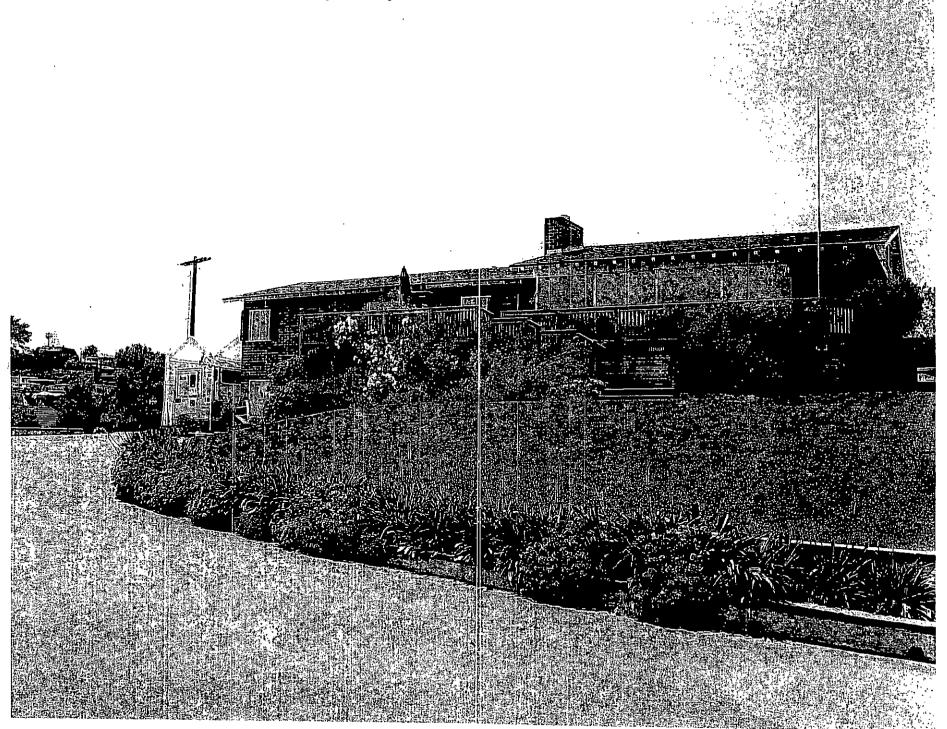
c.c. Mr. Bill Tilden

enc. Photograph of 1202 Plum Street, May, 2004





, 202 Fluin St June, 2001

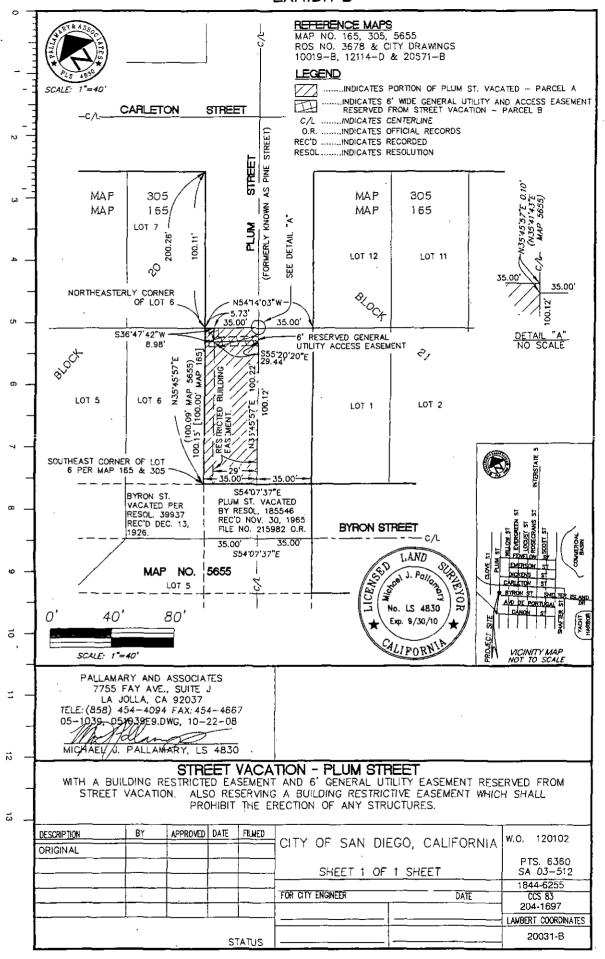


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From: Bingham Dale-MGI1364 [dale@motorola.com]

Sent: Tuesday, November 11, 2008 9:35 AM

To: CLK Hearings1

Subject: Re: Project 6360 Plum Street Right-of-Way

November 11, 2008

Mayor and City Council Attn: City Clerk City Administration Building 202 "C" Street Mail Station 2 A San Diego, CA 92101-3862

Re: Project 6360 Plum Street Right-of-Way

To Whom it May Concern:

My name is Dale Bingham. I live at 1315 Plum Street, within two blocks of the cul-de-sac that includes the subject property at 1202 Plum Street. I lived across the street from 1202 Plum Street (at 1203 Plum Street) from 1987 to 1991. I can attest that this area has never had a traffic or parking problem. The Tilden's "yard" (1202) boundary along Plum Street is the same now as it was when we lived directly across the street. The street is paved as it was when we lived there as well.

I want to go on record as approving the 1/2 street vacation. We feel that granting the ½ street vacation will affirm the longstanding use of the west half of Plum Street and be in the best interests of the neighborhood. Granting the ½ street vacation may also result in future property tax benefits to the City of San Diego.

Sincerely,

Dale Bingham 1315 Plum Street San Diego, CA 92106 619-226-4775

The Superior Court of the State of California

CHAMBERS OF FRANK A. BROWN Judge of the Superior Court

Mailing Address
POST OFFICE BOX 122724
SAN DIEGO, CALIFORNIA 92112-2724

November 5, 2008

Mayor and City Council City Administration Building 202 "C" Street, Mail Station 2 A San Diego, CA 92101-3862

Attn: City Clerk

To Whom it May Concern:

RE: Project # 6360 – Plum Street Right-of-Way

My residence is just over the hill from the Tildens who live at 1202 Plum. My wife and I have lived in Point Loma most of our married life and raised our family here. We have seen land all over the area that is tied up by city easements that will never be used by the city for anything.

This is the case with the property in front of 1202 Plum Street. The street was never built out. Half the street was paved as access for the two homes at the end (1202 and 1203). The other half was simply left and used as a landscaped area for 1202 and 1234. There is no plan by the city to open up this area and pave the "paper" part of the street since it dead ends into already vacated property. The unpaved "paper street" area has been used for landscaping purposes by the owners of this property since the house was built in 1950.

If the City of San Diego does not grant the ½ street vacation, this land will continue to be a liability to the City should someone get hurt on it. Furthermore, if the street vacation is not granted, the City will not receive property taxes on the area. Although the Tildens take care of the landscaped city "owned "area in front of their home, many other people in Point Loma do not - leaving unsightly weed-infested areas for Point Loma residents to see.

1.

Also, given the historical use of this land since 1950 and given that the City has destroyed records prior to 1955 and given that the Tildens have provided letters and pictures showing the use of this land since the home was built, we feel that the Tildens should be granted the street vacation as should others in Point Loma.

We believe street vacations should be encouraged by the City of San Diego as it rids the city of unneeded property, responsibilities and liabilities, and reduces neighborhood conflicts. An added benefit is that these properties are then added to the City's tax base.

We support the Tilden's request for street vacation in front of their home.

Sixeerely, Trank of Brown

Judge Frank Brown

4502 Santa Cruz

San Diego, CA 92107

619-224-4215

From: Lleesandiego@aol.com

Sent: Wednesday, November 12, 2008 4:16 PM

To: CLK Hearings1

Subject: RE:Project No. 6360 Plum Street Right-of-way Vacation/planned Development Perm

To Mayor Sanders and the City Council:

There is to be a hearing held on this project, with applicants Bill and Peggy Sue Tilden the instigating people, on November 17th, at 2pm. I will not be able to attend, as I will be at work, but wish to have my say in this proposal. I understand that it was heard once before and denied and is now being modified to be heard once again.

My concerns are that: 1. It takes over property owned by a widow lady at the top of our street(Byron St)to make this "Vacation Right-of-Way" possible for the Tilden's convenience. 2. It seems like it will open up Byron and Avenida De Portugal to be thru traffic streets to this one way exit from Plum St. to Canon St. 3. I thought that there was some law restricting the private openings onto State Highways, which Canon St. is a State Highway, and the developer just up the way on Canon was not allowed to put in multiple driveway entrances to his 5 lots because of that law and kept to one only just before the Del Mar turn. 4. It would cause a traffic hazard by an entrance onto Canon in a blind spot and on a curve on an already dangerous piece of narrow road, and 5. We, on Byron and Avenida de Portugal don't want our streets to be thru streets for any reason, we like them the way they have always been and see no reason to change them at all. Exits from Plum can be had at a safer, more level driving exit by using Plum St. and going down to Garrison St. for the Tilden's convenience. So, I for one, along with several other neighbors oppose this Project No. #6360 mightily.

I did call for additional information to the City Project Manager, Patrick Hooper, and left a message on his phone which has never been acknowledged or replied to, on November 3, 2008, after receiving our notice of a public hearing. I do not understand why I have not heard from him at all. Please consider this letter when you are hearing this issue next Monday in the Council Meeting.

Respectfully,

Linda Lee-3331 Byron, SD 92106
Betty M. Lee & Donald and Betty Lee Family Trust-3331 Byron St., SD 92106
Souza, Evelyn M. Trust, and Marlene Mc Cullough, 3330 Byron St, SD 92106

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Mayor and City Council
Att: City Clerk
City Administration Building
202 "C" Street
Mail Station 2 A
San Diego, Ca. 92101-3862

RECEIVED ACT CLERK'S OFFICE 08 NOV 13 MM 10: 48 SAN DIEGO, CALIF. 209 11/17

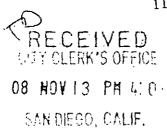
To whom it May Concern:

RE: Project 6360 Plum St. Right-of-Way. Hoaring 11-17-2008. We are John and lisbet O'Neil. We live at 4624 Orchard Ave, S.D. 92107, just over the hill in Pt. Loma Heights-only a few blocks from the Tildens who live at 1202 Plum St. Our daughter and son-in-law live just behind the Tildens at 35c1 Addison St. We walk our grand-daughter around the neighborhood frequently. We have lived in Pt. Loma since 1973 and have know of this property specifically since 2000. We have visited this site many times and have found no parking problems and no traffic problems.

We believe the City should grant the <u>Street Vacation</u> to the Tildens. The City provides for the vacating of paper streets and this is one that should be vacated. To my knowledge this carea how been used since construction in 1950 as the front yard to 1202 Plum St. It is in the best interest of the neighborhood that this use continue indefinitely.

Sincerely.

John ON eil + Lisbet O'Neil 4624 Orchard Ave. San Digo, Ca. 92107 619-225-8363



November 11, 2008

Mayor and City Council
Attn: City Clerk
City Administration Building
202 "C" Street
Mail Station 2 A
San Diego, CA 92101-3862

RE: Project #6360 Plum St. Right-of-Way city Council Hearing 11/17/08

To Whom it May Concern:

We are Paul and Shannon Websener. We live at 1954 Plum Street in Point Loma, not far from Tildens who live at 1202 Plum. We have just successfully completed a street vacation (May 2008) which clarified the title and land use of our property.

We feel that the Tildens should be granted the street vacation they seek as should others in Point Loma. We feel these should be encouraged by the City of San Diego as it rids the city of unneeded property and responsibilities and liabilities for such. An added benefit is that these properties are then added to the City's tax base.

We support the Tilden's request for street vacation in front of their home in an area which has been used for landscape purphises since their home was built in 1950.

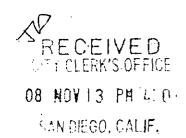
Paul and Shannon Wehsener

1954 Plum Street

San Diego, CA 92107

619-222-3016

CC. Councilman Faulconer Matt Aubrey



Mayor and City Council Attn: City Clerk City Administration Building 202 "C" Street San Diego, CA 92101-3862 Mail Station 2A

To Whom It May Concern:

RE: City Council Hearing \1/17/08,

Plum Street Right of Way Vacation, Project No: 6360

My name is Sean Kelly. I live at 1256 Plum Street - 2 houses away from the Tildens (1202 Plum) on the north-west corner of Plum and Carleton Streets. We received the Notice of City Council Public Hearing and I am writing to support their request for 1/2 street vacation.

I have seen the letters and pictures documenting that the area in front of their home has been used exactly in this same manner since their home was built in 1950. The cul-desac has been in this same configuration for 58 years - same type of paving, same wall at the street edge. I understand, should the vacation be granted, that the paved portion of the street would continue to be the right-of-way just as it has always been. What good would it do the City of San Diego to have this land removed over the 1/2 of the "paper street" that has never been built out? It would only serve to ruin the look of the Tilden's home and change the cul-de-san detrimentally.

Plum Street to the south of the Tildens has already been vacated many years ago (1965). I do not see a disadvantage by allowing this street vacation request to be granted. I do see an advantage to the neighborhood as a whole to vacate the requested portion of Plum Street which serves as the front yard for the Tilden's home.

We are in favor of the street vacation.

Sincerely,

Sean Kelly 619-269-1728 CC. Councilman Faulcamer Matt awbrey

08 NOV14 AMIL 29

SAN DIEGO, CALIF.

November 7, 2008

Mayor and City Council
Attn: City Clerk
City Administration Building
202. "C" Street
Mail Station 2 A
San Diego, CA 92101-3862

To Whom it May Concern:

RE: Project # 6360 Plum Street Right-of-Way Vacation

I am Jennifer Long. I live at 3130 MacaulayStreet in Point Loma and visit the dul-de-sac where the Tildens live on a regular basis. This section of Plum Street is a very quiet area with only 4 houses. There has never been a parking problem on this street that I have seen.

I believe that there are many places such as this in Point Loma – areas that the City never intends to use – that should be vacated. The City doesn't need the liability these areas bring and the City does need the added revenue from property taxes. The Tildens should own their front yard.

I am in support of the 1/2 street vacation requested by the Tildens.

Sincerely,

Jennifer Long

3130 Macaully Street

San Diego, Ca 92106

619-523-6431

Mayor and City Council Attn: City Clerk City Administration Building 202 "C" Street San Diego, CA 92101-3862 Mail Station 2A

To Whom It May Concern:

RE: City Council Hearing 11/17/08,

Plum Street Right of Way Vacation, Project No: 6360

My name is Sean Kelly. I live at 1256 Plum Street -2 houses away from the Tildens (1202 Plum) on the north-west corner of Plum and Carleton Streets. We received the Notice of City Council Public Hearing and I am writing to support their request for $\frac{1}{2}$ street vacation.

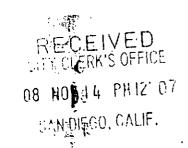
I have seen the letters and pictures documenting that the area in front of their home has been used exactly in this same manner since their home was built in 1950. The cul-desac has been in this same configuration for 58 years – same type of paving, same wall at the street edge. I understand, should the vacation be granted, that the paved portion of the street would continue to be the right-of-way just as it has always been. What good would it do the City of San Diego to have this land removed over the ½ of the "paper street" that has never been built out? It would only serve to ruin the look of the Tilden's home and change the cul-de-sac detrimentally.

Plum Street to the south of the Tildens has already been vacated many years ago (1965). I do not see a disadvantage by allowing this street vacation request to be granted. I do see an advantage to the neighborhood as a whole to vacate the requested portion of Plum Street which serves as the front yard for the Tilden's home.

We are in favor of the street vacation.

Sincerely,

619-269-1728



November 11, 2008

Mayor and City Council
Attn: City Clerk
City Administration Building
202 "C" Street
Mail Station 2 A
San Diego, CA 92101-3862

RE: Project #6360 Plum St. Right-of-Way

To Whom it May Concern:

We are Paul and Shannon Wehsener. We live at 1954 Plum Street in Point Loma, not far from Tildens who live at 1202 Plum. We have just successfully completed a street vacation (May 2008) which clarified the title and land use of our property.

We feel that the Tildens should be granted the street vacation they seek as should others in Point Loma. We feel these should be encouraged by the City of San Diego as it rids the city of unneeded property and responsibilities and liabilities for such. An added benefit is that these properties are then added to the City's tax base.

We support the Tilden's request for street vacation in front of their home in an area which has been used for landscape purposes since their home was built in 1950.

Sincerely

Paul and Shannon Wehsener 1954 Plum Street San Diego, CA 92107

619-222-3016



San Diego city council

08 NOV 14 PM 1:01

Nov. 13 2008

Atten: city clerk

CAN DIEGO, CALIF.

City Administration bldg.

Reference: Plum street right of way vacation project 6360 Public Hearing Nov 17 2008

Dear Sirs

Theodore and Irene ward, residents and owners of the property at 1234 Plum Street located next door to the reference project at 1202 Plum street. We approve this ½ street vacation as described in the notice of public hearing. The applicants are good neighbors and have landscaped the unimproved ½ street area subject to vacation to generally enhance the area.

This approval is based upon the condition that the remaining legal unimproved ½ street fronting 1234 Plum street residence will not be opened. This area is now landscaped and maintained by the Wards for the past 23 years.

Respectfully submitted

Ineodore War

Irene ward

From:

lissab1@cox.net

Sent:

Monday, November 17, 2008 9:12 AM

To:

CLK Hearings1

Subject:

Fwd: Fwd: Plum Street Right -Of -Way Vacation Project 6360

```
> Date: Sun, 16 Nov 2008 23:45:06 -0800
  > From:
           <lissabl@cox.net>
  > To: lissabl@cox.net
  > Subject: Fwd: Plum Street Right -Of -Way Vacation Project 6360
  > > Date: Sun, 16 Nov 2008 23:43:45 -0800
  > > From: <lissabl@cox.net>
  > > To: phooper@sandiego:gov
  > > Subject: Plum Street Right -Of -Way Vacation Project 6360
  > >
  > > Dear Mr. Hooper,
  > > I have owned and resided in my home at 3430 Addison Street since 1987. My husband and
  I had problems with the Tilden's exploitive land development when they began occupying
  their home in 2004. I have several letters substantiating this situation. The first issue
  was the construction of a block wall which was constructed on the property line without
  permits and exceeding the height restriction. The second was the construction of an
  unattractive temporary "circus-like' canvas structure which serves as storage. Our back
  yard and his side yard were equal in slope and decline until the area was graded. We
  questioned the amount of grading that was done to this area since it cause problems with
  drainage. There have been several other issues in relation to their development in
  addition to their coercive tactics.
  > > Many of the neighbors as well as the Peninsula governing group objected to the
  approval of a Right-Of-Way Vacation in 2005 when it was first proposed. We spoke to the
  Planning Commission atthat time to voice our concerns. They did not want the Tilden's to
  have any more development rights. Now a few years later we are notified that the proposal
  is coming up again for a decision. First of all, I totally object to the timeline of this
  hearing. Two weeks notice for this hearing is totally inadequate time to prepare an
  objection. Also, there is no explanation nor details on the notice except the name of the
  project. We as neighbors, who could be severely impacted if this is approved, need to have
  detailed explanations and description of this proposed project. This needs to be looked at
ો closely and in depth. This should not be a hasty decision.It is critical that all be given
  time to voice objections.
  > > i am extremely concerned because my backyard borders the Tilden's side yard. If the
  street vacation is granted, it will only increase their development rights . They
  presently have a 180 degree view without obstructions. The added land will allow them an
  angle to perhaps build not only a circular driveway and additional garage but possible
  even another structure. i believe this is their intention. This would destroy the
  quietness , privacy, and views of the neighbors. If the Tilden's are granted approval for
  a street vacation, I would strongly urge that they sign a buiding restrictive easement. It
  is not fair for one person to improve a property while destroying the properties which
  surround them Please support the impacted neighbors and recommend that the land remains as
  it has always been-a parcel of the city of San Diego. Thank you very much.
  > > Sincerely,
  > > Lissa Brown
      3430 Addison st.
  > > San Diego, CA 92106
                              619-224-8040
```

From:

Ross Campbell [RCampbell@CoastLawGroup.com]

Sent:

Monday, November 17, 2008 12:37 PM

To:

CLK Hearings1

Cc:

Hooper, Patrick; map@petersonprice.com; Gary Sirota

Subject:

Project No. 6360; Plum Street Right-of-Way Vacation

Attachments: Project 6360 - Plum St Right-of-Way Vacation, Comment Letter, 11.17.08.pdf; enclosures.pdf

Dear City Clerk representative:

Please accept the attached written comments on the above-referenced project and forward the same to the Mayor and Councilmembers for this afternoon's hearing on the same.

Thank you,

Ross Campbell



Ross M. Campbell, Esq. Coast Law Group LLP 169 Saxony Ruad Suite 204 Encodes Caldomia 92024 Pn. 760 942 8505 x105 Fx. 760 942 8515

www.coastlawgroup.com

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169 Saxony Road Suite 204 Encinitas, CA 92024

Tel 760-942-8505 Fax 760-942-8515 www.coastlawgroup.com

November 17, 2008

Honorable Mayor and City Council
Attn: City Clerk, City of San Diego
City Administration Building
202 "C" Street
San Diego, CA 92101
Mail Station 2A

Via Fax and Electronic Mail Hearings1@sandiego.gov 619.533.4045

Re: Project No. 6360 - Plum Street Right-of-Way Vacation

City Council Hearing - November 17, 2008

Dear Mr. Mayor and Honorable City Councilmembers:

Coast Law Group represents the interests of Tom Wurfl with respect to the City's review of the above-referenced right-of-way vacation (the Project). Mr. Wurfl resides adjacent to the Tilden property, immediately to the north at 3413 Carleton Street. As such, his rights and interests stand to be most impacted by approval of the vacation. Thank you for the opportunity to participate in the review process.

As the Council is aware, it has always been contemplated that approval of the vacation would be expressly conditioned upon the imposition of a blanket building restriction applicable to the entire area to be vacated (such that no new structures or additions could be developed therein). However, as a simple review of the draft Resolution reflects, no such restriction has been included or applied. In fact, the language of the Resolution inexplicably goes so far as to promote future development. For obvious reasons, this is entirely unacceptable. Accordingly, to the extent the City fails to revise the draft Resolution to clearly delineate the scope of the building restriction, any approval will be subject to challenge in the courts as an abuse of discretion. Further, restrictions must be in place to ensure that the current building envelope is not expanded outward and that the vacation will not affect or expand existing setbacks. In that regard, please consider the following specific concerns:

As Mr. Wurfl has repeatedly indicated, approval of the vacation would allow the applicants to construct a massive addition to their house and build out their property in a manner entirely inconsistent with the surrounding neighborhood and the rights of neighboring property owners. For instance, even though homes in the area average 3,000 square feet, the vacation could allow the applicants to expand their residence to in excess of 6,000 square feet. Neighboring property owners were entitled to rely on the existing condition of the neighborhood when they purchased their homes and there is no basis to allow a single owner to subsequently build out their front yard area at the expense of all others.

Recognizing this concern, both the Planning Commission and Staff have repeatedly indicated that the area to be vacated will be subject to a blanket building restriction such that no new structures may be located within the vacated area. For instance, in response to Mr. Wurfl's concerns, Staff stated that the following:

[The building restriction] would prevent any development of the area currently identified as the street, whether paved or just landscaped. The idea was that

San Diego City Council; Project 6360 Plum Street Right-of-Way Vacation November 17, 2008 Page 2

this would allow the area to be vacated (covert back to private ownership), without letting the look/character of the area to change from what it is today. In other words, the frontages of both homes will never be allowed to be developed with any kind of building/structure. (See email from Patricia Fitzgerald dated June 16, 2005; emphasis added).

Similarly, Staff recently indicated that "there is a building restricted easement over the vacated area so no structure of any kind will be permitted." (See email from Patrick Hooper dated November 14, 2008). Notwithstanding the above, the draft Resolution expressly suggests that development of the vacated area will be allowed. For instance, it states that the owner has requested the vacation "to <u>facilitate development of their property</u>." (Recital 2; emphasis added). It further states,

Upon acquisition of encroachment permit from the City Engineer pursuant to the Municipal Code of the City, the owners of the underlying fee <u>may utilize the</u> above described parcel of land for structures, the planting or growing of trees, or the installation of privately owned pipelines." (See Par. 3; emphasis added).

The foregoing directly contradicts the building restriction condition of approval, which is to apply to the entire vacated area, including the City's reserved utility easement. As such, both of the above-referenced provisions must be removed from the text of the Resolution. In addition, the Resolution must be revised to clearly delineate the scope of the building restriction. In that regard, an additional paragraph must be added as follows:

5. That notwithstanding any other provision herein, the entire area to be vacated pursuant to this Resolution (as described in Paragraph 1 and more particularly shown in Exhibit A), including the area subject to the easement reserved by the City of San Diego (as described in Paragraph 3), shall be subject to a building restriction such that no structures may be developed, built or otherwise allowed within the vacated area. Further, the vacation shall not affect, alter or otherwise be used to expand existing setbacks. The restrictions set forth in this Paragraph 5 constitute conditions of approval and shall apply to and bind the owners, their successors in interest and assigns, and shall run with the land; any subsequent owner shall take subject to the restrictions set forth herein.

Given that the building restriction is intended to be an express condition of project approval (and was a component of the Planning Commission's recommendation) and the Resolution will be a recorded document, the foregoing must be added to avoid any ambiguities – this clarity will be particularly important should the issue ever arise in future years down the road. Further, express restrictions must be applied with respect to <u>existing setbacks</u> to ensure the current building envelope is maintained.

On that note, the applicants have indicated that they have no intention of developing the front yard area, that they agree the building restriction is to apply such that no new structures may be developed in the vacated area, and that the existing setbacks will not change. As such, there should be no issue or objection to imposing the foregoing development restrictions.

To the extent the Council fails or refuses to impose the above as express conditions of project approval, the necessary findings for vacating the right-of-way simply cannot be made. (See

San Diego City Council; Project 6360 Plum Street Right-of-Way Vacation November 17, 2008 Page 3

San Diego Municipal Code, §125.0941, subsections (b), (c) and (d)). In that regard, approval of the vacation will at once confer a purely private benefit to the applicants and result in a direct adverse impact to the neighboring community. As noted above, the vacation cannot serve as a basis to allow increased development; approval is only warranted to the extent it will ensure compatibility with the established scale of the neighborhood.¹

In short, we request (i) greater clarity in the Resolution with respect to the scope of the building restriction, and (ii) additional language expressly indicating that the existing setbacks will not change as a result of project approval. Thank you for your time and effort in considering the foregoing.

Sincerely,

COAST LAW GROUP LLP

Ross M. Campbell

CC: Client

Patrick Hooper, project manager

Matthew Peterson, counsel for the applicants

enclosures

¹ Equally problematic, approval will compromise access for fire and other emergency life safety services given the limited amount of right-of-way to remain.

PJ,

From what I can tell from the survey you sent and my own physical measurements, the proposed setback will still allow the two subject property owners to build approximately 9' closer to the existing street centerline than the existing house.

This will severely impact my views, so I must strongly object to the adoption of this setback. If, as Mr. Tilden stated at the hearing, his object was only to "own his own front yard", then why is the setback not proposed to be where the house is now?

The 58' no-build easement does not meet its intended goal of "allow(ing) the area to be vacated (convert back to private ownership), without letting the look/character of the area to change from what it is today." Allowing a structure to built farther toward the existing centerline will most certainly change the look/character from what it is today! To accomplish the goal as stated, the frontage of both homes should never be allowed to be built closer to the existing centerline than they are today.

I'd really like to know how and when this decision was made and who was present. Why, after having provided a letter of interest, wasn't I included in whatever process led to this decision? Also, was the PCPB given the opportunity to review the proposed setbacks?

I was not informed of the Planning Commission meeting of January 27, 2005. Here it is, June 16 and I am just discovering what has been proposed regarding the setbacks.

I must say that I am very disappointed that I seem to have to go chasing after information regarding proposed changes that affect me directly, especially after I specifically followed the procedures to make it clear that I want to know what is going on.

At this point, I'd like to know exactly what my rights and opportunities are to oppose this action. I also want to know what other steps I must take it takes to be kept abreast of and involved in any further developments.

Sincerely

Tom Wurfl

----Original Message-----

From: <u>PJ Fitzgerald</u> **Date:** 06/16/05 14:05:36

To: W., Tom

Subject: Re: Plum St.

Tom-

The current house setback is approx. 8 feet per the attached survey - I have been advised that the extg. deck is very near or at the front property line, but still need a new drawing from the surveyor to confirm. The 58' was the approx. distance of the extg. street width (as mapped, not as physically exists - it's about 27 feet at it's widest paved area) - therefore the centerline of the street to the extg. property line on each side is approx. 29'. The Planning Commission's direction in adding that special condition of approval was to put

the no-build easement on the vacated area, and that by doing so, it would prevent any development of the area currently identified as the street, whether paved or just landscaped. The idea was that this would allow the area to be vacated (convert back to private ownership), without letting the look/character of the area to change from what it is today. In other words, the frontages of both homes will never be allowed to be developed with any kind of building/structure.

Hope this info answers your inquiry.

_P.J

>>> "Tom W." <yotboss@hotmail.com> 6/16/05 1:36:38 PM >>> PJ.

Thanks..... Can you tell me what the current building setback is and how and when the 58' figure was determined? I was unaware that this added restriction had taken place.

Tom

----Original Message----

From: PJ Fitzgerald

Date: 06/16/05 10:38:03

To: W., Tom

Subject: Re: Plum St.

Tom-

Nothing has changed on the project since we last spoke - project remains as approved at Planning Commission - vacation of the portion of Plum fronting the properties and the added building restricted easement for 58-feet of width (29 feet on either side of the centerline of the street). We anticipate a mid to late July hearing at City Council. -PJ

Patricia J. FitzGerald Development Project Manager Development Services City of San Diego 619-446-5240

For useful information about the development process, please visit our web-site at: www.sandiego.gov/development-services

>>> "Tom W." <yotboss@hotmail.com> 6/15/05 9:32:27 PM >>>

Hi PJ.

I haven't heard a word about the Plumb Street vacation issue. Is there anything scheduled? Thanks...

Tom
Original Message——

From: PJ Fitzgerald
Date: 01/10/05 14:32:54
To: yotboss@hotmail.com
Subject: Re: Plum St.

Tom-

This note confirms that I have received your letter of interest. Thanks-

-PJ

Patricia J. FitzGerald Development Project Manager Development Services City of San Diego 619-446-5240

For useful information about the development process, please visit our web-site at: www.sandiego.gov/development-services

>>> "Tom W." <<u>yotboss@hotmail.com</u>> 1/7/05 1:32:13 PM >>> Dear P.J.,

Thanks for your attention this afternoon regarding the Plumb Street right of way issue. I would like to be listed as an interested party please.

Regards,

Tom Wurfl 3413 Carleton St. San Diego, CA 92106 619-225-8553 Yotboss@hotmail.com

Ross Campbell

From:

Hooper, Patrick [PHooper@sandiego.gov]

Sent:

Friday, November 14, 2008 11:12 AM

To:

Ross Campbell

Subject:

RE: Plum Street Right-of-Way Vacation, Project No. 6360

Attachments: Plum Street Aerial.pdf; Plum Street Aerial 2.pdf

Ross.

Please see the attached and let me know if you have any questions. The Encroachment Maintenance and Removal Agreement (EMRA) is a condition that we are making the property owner obtain for the landscape improvements (small wall) that stick out into the right-of-way area that is to remain. If the City denies the EMRA the owner will be required to remove the wall. Also, there is a building restricted easement over the vacated area so no structure of any kind will be permitted. The only remaining development potential on the Tilden property would be a second story addition but that would be the case with or without the right-of-way vacation. Thanks, P

From: Ross Campbell [mailto:RCampbell@CoastLawGroup.com]

Sent: Thursday, November 13, 2008 3:51 PM

To: Hooper, Patrick Cc: Gary Sirota

Subject: RE: Plum Street Right-of-Way Vacation, Project No. 6360

Thanks, Patrick.

The concerns relate to allowing the applicant to increase development on their property that is not warranted or appropriate for the neighborhood. In that regard, the draft Resolution expressly authorizes the applicant to pursue an encroachment permit for "structures" after the vacation is granted. Can you please provide a map showing the precise area to be vacated?

Thank you,

Ross



Ross M. Campbell, Esq. Coast Law Group LLP
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Encinities, California 92024
Ph. 760.942.8505 x105
FX. 760.942.8515
www.coastlaweroup.com

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From: Hooper, Patrick [mailto:PHooper@sandiego.gov]

Sent: Wednesday, November 12, 2008 9:07 AM

To: Ross Campbell

Subject: RE: Plum Street Right-of-Way Vacation, Project No. 6360

Ross.

Sorry, I have been out of the office this week. As you may know, the Tilden proposal has been revised from the previous full-width partial vacation at the end of Plum Street that included the Ridgeway Residence across the street - to the current half-width partial vacation that includes only the Tilden's underlying fee title to the existing center line. This is a cleaner approach in that it does not involve any shared access or parking agreements between the properties and the current improved access will continue to serve both lots. I am unclear on how this issue would affect any other neighbors in the community as the vacated portion is at the terminus of a non-standard cull de sac and has no bearing on any other neighbors in terms of access or parking. Additionally, the physical condition of the street would not change as a building restricted easement over the vacated area is a condition of the project. I have attached the Executive Summary and the draft Resolution for your review. Please E-Mail me with any questions you may have. Thanks, P

From: Ross Campbell [mailto:RCampbell@CoastLawGroup.com]

Sent: Monday, November 10, 2008 12:05 PM

To: Hooper, Patrick Cc: Gary Sirota

Subject: Plum Street Right-of-Way Vacation, Project No. 6360

Mr. Hooper.

This is to follow up on the messages I left with you last week and this morning regarding the above-referenced project. As noted, this office represents concerned neighbors opposed to the project. Please advise whether the staff report has been prepared/is available. I would like to review the same as soon as possible. It was my understanding that the City planned to address street vacations in the area on a more comprehensive basis and Mr. Tilden abandoned his application accordingly. Please contact me to discuss the matter further.

Thank you,

Ross



Ross M. Campbell, Esq. Coast Law Group LLP 169 Saxony Road, Suite 204 Encintas, California 92024 Ph. 760.942,8505 x105 Fx. 760.942,8515: www.coastiswaroup.com

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